

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

V.

STEVEN E. NOTHERN,

Defendant.

Civil Action No. 05-10983 (NMG)

**DECLARATION OF ROBERT E. TOONE FILED IN SUPPORT OF DEFENDANT'S
OBJECTIONS TO MAGISTRATE JUDGE'S ORDER ON RENEWED
MOTION TO COMPEL AND MOTION FOR AN ORDER TO SHOW CAUSE**

Robert E. Toone, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury as follows:

1. I am an attorney for Steven E. Nothern in the above-referenced matter. I am a member of the Massachusetts bar and the bar of this Court. Except where otherwise indicated, I make this declaration based upon my own personal knowledge, upon public records, and upon the documents related to this action.

2. True and correct excerpts from the deposition transcript of Frances Anderson (Aug. 3, 2006) are attached hereto as Exhibit A.

3. True and correct excerpts from the deposition transcript of Roger Anderson (June 20, 2006) are attached hereto as Exhibit B.

4. True and correct excerpts from the deposition transcript of Brian Collins (May 12, 2006) are attached hereto as Exhibit C.

5. True and correct excerpts from the deposition transcript of Peter Davis (April 19-20, 2006) are attached hereto as Exhibit D.

6. True and correct excerpts from the deposition transcript of Peter Fisher (Aug. 8, 2006) are attached hereto as Exhibit E.

7. True and correct excerpts from the deposition transcript of Anthony Fratto (Aug. 30, 2006) are attached hereto as Exhibit F.

8. True and correct excerpts from the deposition transcript of David Harris (July 25, 2006) are attached hereto as Exhibit G.

9. True and correct excerpts from the deposition transcript of Elizabeth Holahan (Aug. 23, 2006) are attached hereto as Exhibit H.

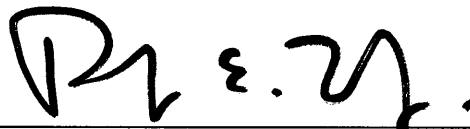
10. True and correct excerpts from the deposition transcript of Paul Malvey (June 23, 2006) are attached hereto as Exhibit I.

11. True and correct excerpts from the deposition transcript of Jill Ouseley (July 24, 2006) are attached hereto as Exhibit J.

12. True and correct excerpts from the deposition transcript of Brian Roseboro (June 27, 2006) are attached hereto as Exhibit K.

13. True and correct excerpts from the Rule 30(b)(6) deposition transcript of Verizon Business (Anne Wilson) (Oct. 6, 2006) are attached hereto as Exhibit L.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 7, 2007.

A handwritten signature in black ink, appearing to read "R. E. Toone", written over a horizontal line.

Robert E. Toone

EXHIBIT A

**Cited Excerpts from the Deposition Transcript of Frances
Anderson
(Aug. 3, 2006)**

Washington, D.C.

Page 1

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 - - - - -)
4 UNITED STATES SECURITIES AND)
5 EXCHANGE COMMISSION,)
6 Plaintiff,)
7 v.) No. 05-10983 (NMG)
8 STEVEN E. NOTHERN,)
9 Defendant.)
10 - - - - -)
11 Washington, D.C.
12 Thursday, August 3, 2006
13 Videotape Deposition of FRANCES ESTELLE ANDERSON,
14 called for examination by counsel for Defendant in
15 the above-entitled matter, the witness being duly
16 sworn by CHERYL A. LORD, a Notary Public in and for
17 the District of Columbia, taken at the offices of
18 FOLEY HOAG LLP, 1875 K Street, N.W., Suite 800,
19 Washington, D.C., at 10:10 a.m., Thursday, August 3,
20 2006, and the proceedings being taken down by
21 Stenotype by CHERYL A. LORD, RPR, CRR, and
22 transcribed under her direction.

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1 on me. And they would tell me, you have to get rid
2 of some of this stuff that you're not using, and
3 that's how I started deleting old press releases that
4 I had on my system to --

5 BY MR. SHOPE:

6 Q. Would you transfer them to a disk so that
7 they could be saved?

8 A. Most of my stuff was on a disk.

9 Q. Okay. So what you had on the C drive, do
10 you think you saved that to a disk?

11 A. I saved it to the disk, but I couldn't
12 tell you where the disk was.

13 Q. Do you have any idea where it might be?

14 A. No.

15 Q. What would you do with those disks?

16 MS. WILLIAMS: Objection.

17 A. I don't have an idea where the disks are.

18 BY MR. SHOPE:

19 Q. Okay. But that was not my question.

20 My question was, what would you do with
21 the disks to which you were saving things?

22 MS. WILLIAMS: Objection.

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1 A. We had a -- back when we were saving stuff
2 to the disk, we had just like a little thing that --
3 a cabinet or a file thing that the disks were stored
4 in.

5 What happened throughout the years, I
6 couldn't tell you, because it's all in the file
7 cabinet.

8 BY MR. SHOPE:

9 Q. Is there somebody who is in charge of that
10 file cabinet?

11 A. The file cabinet is -- no longer exists,
12 because that's when we were storing, saving the paper
13 copies and the tapes all at the same time.

14 Q. So when did they get rid of the file
15 cabinet?

16 A. I have no idea.

17 Q. Do you know who was in charge of it before
18 they got rid of it?

19 A. Some of the stuff went to archives. I
20 don't know when the rest of it. All I was in charge
21 of was sending old press releases to the archives.

22 Q. Who was in charge of the file cabinet

1 before they got rid of it?

2 MS. WILLIAMS: Objection.

3 A. I was.

4 BY MR. SHOPE:

5 Q. You were?

6 A. Yes.

7 Q. Can you tell me approximately when they
8 got rid of it?

9 A. It was right -- we was in the second
10 floor. That's back in 2001 when we was keeping all
11 the paper copies.

12 Q. So you got rid of the file cabinet in
13 2001?

14 A. Maybe 2002.

15 Q. So getting back to the chronology of what
16 happened here, after the press conference was over
17 and you had to post the press release to the Web, you
18 went back to your C drive. You had what
19 Ms. Anderson -- what you had -- what Ms. Holahan --
20 excuse me -- what Ms. Holahan had emailed you before.
21 You compared it to what was on your C drive just to
22 make sure there had been no version changes.

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1 Right?

2 A. Correct.

3 Q. Okay. At that point you had to again add
4 the words for immediate release?

5 MS. WILLIAMS: Objection.

6 MR. ROSETTI: Objection.

7 A. No.

8 BY MR. SHOPE:

9 Q. Correct?

10 Why not?

11 A. Because I generated a copy of what Betsy
12 sent me. I select all. I started procedure to
13 select the -- went to the Internet Explorer and
14 pulled up the icon to go on the Internet to start
15 posting FTP. Once you save the document on the C
16 drive, when you go to FTP, you can pull up your FTP
17 from -- you can pull up your C drive from the FTP.

18 Q. So you went to the staging server, and
19 then from there, you went back to your C drive?

20 A. I went to my C drive first.

21 Q. Okay. And you selected all?

22 A. Yes.

Washington, D.C.

<p>Page 286</p> <p>1 A. It's showing me the document.</p> <p>2 Q. It's showing you the document, but it's</p> <p>3 showing you the document as reformatted by the</p> <p>4 staging server?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. You're comparing that to the hard</p> <p>7 copy -- to a hard copy of what Ms. Holahan had</p> <p>8 emailed you at the beginning of the day?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. You go through it to see -- to try</p> <p>11 to match up your form -- the format on the staging</p> <p>12 server as closely as you can to what she had emailed</p> <p>13 you earlier in the day?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And at some point, you satisfied</p> <p>16 yourself that the 2 matched as closely as you were</p> <p>17 going to be able to make the match.</p> <p>18 Correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. So at that point you saved all the</p> <p>21 work that you'd done.</p> <p>22 Correct?</p>	<p>Page 288</p> <p>1 A. I have no idea.</p> <p>2 MR. SHOPE: I have nothing further.</p> <p>3 MR. ROSETTI: I don't have any further</p> <p>4 questions.</p> <p>5 Thank you.</p> <p>6 THE VIDEOGRAPHER: Here marks the end of</p> <p>7 videotape deposition of Frances Anderson. Time on</p> <p>8 the screen is 15:38:11. We're going off the record.</p> <p>9 (Whereupon, at 3:41 p.m., the taking of</p> <p>10 the instant deposition ceased.)</p> <p>11</p> <p>12</p> <p>13</p> <p>14 Signature of the Witness</p> <p>15 SUBSCRIBED AND SWORN to before me this _____ day of</p> <p>16 _____, 20_____.</p> <p>17</p> <p>18</p> <p>19 Notary Public</p> <p>20 My Commission Expires: _____</p> <p>21</p> <p>22</p>
<p>Page 287</p> <p>1 A. Correct.</p> <p>2 Q. Okay. And thereafter, you began the</p> <p>3 process to transfer from the staging server to the</p> <p>4 actual Treasury Web site?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And that's simply the update</p> <p>7 command?</p> <p>8 MS. WILLIAMS: Objection.</p> <p>9 A. I forgot what the word was.</p> <p>10 BY MR. SHOPE:</p> <p>11 Q. You don't remember -- you don't</p> <p>12 remember -- you recall -- you said "post" before.</p> <p>13 A. Post, yeah.</p> <p>14 Q. So your memory is that the command is</p> <p>15 called "post" or something like that?</p> <p>16 MS. WILLIAMS: Objection.</p> <p>17 A. Correct.</p> <p>18 BY MR. SHOPE:</p> <p>19 Q. All right. You have no idea whether the</p> <p>20 staging server and the Web site are synchronized.</p> <p>21 Is that a fair statement?</p> <p>22 MR. ROSETTI: Objection.</p>	<p>Page 289</p> <p>1 CERTIFICATE OF COURT REPORTER</p> <p>2 UNITED STATES OF AMERICA)</p> <p>3 DISTRICT OF COLUMBIA)</p> <p>4 I, CHERYL A. LORD, the reporter before</p> <p>5 whom the foregoing deposition was taken, do hereby</p> <p>6 certify that the witness whose testimony appears in</p> <p>7 the foregoing deposition was sworn by me; that the</p> <p>8 testimony of said witness was taken by me in machine</p> <p>9 shorthand and thereafter transcribed by</p> <p>10 computer-aided transcription; that said deposition is</p> <p>11 a true record of the testimony given by said witness;</p> <p>12 that I am neither counsel for, related to, nor</p> <p>13 employed by any of the parties to the action in which</p> <p>14 this deposition was taken; and, further, that I am</p> <p>15 not a relative or employee of any attorney or counsel</p> <p>16 employed by the parties hereto, or financially or</p> <p>17 otherwise interested in the outcome of this action.</p> <p>18</p> <p>19 CHERYL A. LORD</p> <p>20 Notary Public in and for</p> <p>21 the District of Columbia</p> <p>22 My Commission expires April 30, 2011</p>

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EXHIBIT B

**Cited Excerpts from the Deposition Transcript of Roger
Anderson
(June 20, 2006)**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CIVIL ACTION NO. CV-10983NMG
USDC-DMASS

SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

vs.

STEVEN E. NOTHERN,

Defendant.

ORIGINAL

DEPOSITION UPON
ORAL EXAMINATION
OF

ROGER L. ANDERSON

T R A N S C R I P T of the deposition of ROGER
L. ANDERSON, before ROSEMARY MARINO, a Certified
Shorthand Reporter and Notary Public of the State of
New Jersey, at the offices of MC CARTER & ENGLISH,
Gateway 4, Newark, New Jersey on Tuesday, June 20,
2006, commencing at 10:35 in the forenoon.

1 A. On the phone.
2 Q. And how long did that last?
3 A. Less than an hour.
4 Q. And so what did they discuss with you?
5 A. Whether -- most of it was whether or not
6 there was a confidentiality agreement signed by
7 Mr. Davis.
8 Q. Okay. And what else did you discuss
9 with them?
10 A. Other meetings with Mr. Davis, and my
11 decision to allow him into one of the press
12 conferences.
13 Q. Anything else?
14 A. I don't recall if we discussed
15 procedures or not.
16 Q. Did you do anything else to prepare for
17 your deposition today?
18 A. Reviewed the documents that I gathered.
19 Q. Okay.
20 MS. SHOPE: Off the record.
21 (Discussion held off the record.)
22 (Recess.)
23 Q. You mentioned before we broke that you
24 had discussed with Ms. Williams, Mr. Rossetti and Mr.
25 McGivern various matters relating to Peter Davis. So

1 the Fiscal Assistant Secretary, could have been
2 anybody from the Bureau of Public Debt, I just don't
3 remember.
4 Q. So it could have been Paul Malvey, for
5 example?
6 MS. WILLIAMS: Objection.
7 A. It's possible, yes.
8 Q. Could it have been Jill Lousen?
9 A. Ouseley, yes.
10 MS. WILLIAMS: Objection.
11 Q. Ouseley, I am sorry.
12 And was this at the point when you were
13 yourself delivering the announcement?
14 A. No.
15 Q. It was before then?
16 A. Yes.
17 Q. And do you recall at all what was said
18 on that occasion?
19 A. I believe Mr. Davis was introduced to me
20 as something of a Treasury regular, to that effect.
21 Q. By the way, was this at the point when
22 you were the senior advisor?
23 A. Yes.
24 Q. And was this fairly early in your tenure
25 as the senior advisor?

1 why don't we get into that right now.
2 First of all, when did you first become aware
3 of Peter Davis?
4 A. I met him at one of the refunding
5 events. I don't recall if it was one of the Tuesday
6 presentations or one of the Wednesday press
7 conferences.
8 Q. And how did you -- did he introduce
9 himself to you?
10 A. My recollection is that he was
11 introduced to me.
12 Q. And do you recall who did that?
13 A. It was somebody whose a staff member at
14 Treasury, but I don't know who.
15 Q. Is there sort of a group of people from
16 whom -- I am sorry. Let me rephrase that.
17 Was it likely one or a small group of people?
18 In other words, could you say who was the pool of
19 people who are the likely candidates for having
20 introduced you to Peter Davis?
21 A. It would have been somebody who was a
22 regular, if you will, or regularly involved in the
23 press conferences, but that would have included -- it
24 could have been anybody in the Office of Federal
25 Finance, it could have been anybody in the Office of

1 A. That I don't remember.
2 Q. And did you -- now, during your tenure
3 as senior advisor, were you attending the quarterly
4 refunding conference on a regular basis?
5 A. I believe I went to all of the press
6 conferences, the Wednesday press conferences, yes.
7 Q. And so during your tenure as senior
8 advisor, did you see Mr. Davis at those press
9 conferences on a fairly regular basis?
10 A. I don't remember.
11 Q. Speaking of that initial meeting, do you
12 recall anything else other than that Mr. Davis was
13 introduced to you as a Treasury regular?
14 A. No.
15 Q. Now, did you have any understanding as
16 to whether or not Mr. Davis was a reporter?
17 A. I don't recall if it was at the first
18 meeting I had with him or a later one where he told
19 me that he wrote a newsletter.
20 Q. And so after the -- you first met him, I
21 take it, that was a fairly brief conversation.
22 MS. WILLIAMS: Objection.
23 A. Yes.
24 Q. Was there any discussion at that time as
25 to how it was that he happened to be attending a

1 did you have any communication with anybody else
2 about Mr. Youngdahl's case?
3 A. I discussed it with people in New Jersey
4 who knew Mr. -- who know Mr. Youngdahl, and I believe
5 also with Mr. Malvey.
6 Q. And what did -- in that connection, what
7 did Mr. Malvey say to you and what did you say to
8 Mr. Malvey?
9 A. We were both surprised because we liked
10 Mr. Youngdahl.
11 Q. Anything else?
12 A. No.
13 Q. Did you discuss with Mr. Malvey whether
14 or not there were other people at Goldman, Sachs who
15 might have been aware prematurely of the suspension
16 of issuance of the long bond?
17 A. I don't recall.
18 Q. Did you discuss with Mr. Malvey the
19 possibility that other people besides Mr. Davis might
20 have been aware prematurely of the decision to
21 suspend issuance of the long bond?
22 MS. WILLIAMS: Objection.
23 A. No.
24 MR. SHOPE: If I could just have a
25 short break, I can go through my notes.

1 A. That's correct.
2 MS. WILLIAMS: Objection.
3 Q. Is it, in fact, the case that you,
4 yourself, didn't really have authority to
5 affirmatively admit Mr. Davis to the quarterly
6 refunding conferences, you are simply stating that
7 you, yourself, had no objection.
8 MS. WILLIAMS: Objection.
9 A. Correct.
10 Q. Who would have had authority to admit
11 Mr. Davis to the quarterly refunding conferences?
12 A. Well, the press office dealt with the
13 press people and the various Treasury offices decided
14 which Treasury staff or Federal Reserve staff was
15 there, and I took it upon myself to allow one of the
16 Borrowing Advisory Committee members to attend one.
17 Q. Now, when you said you took it upon
18 yourself to allow one of the Borrowing Advisory
19 Committee persons to attend, what did you have to do?
20 A. I just invited him to stay.
21 Q. Okay. Was that something he had
22 requested or she had requested?
23 A. No. This was back when the Borrowing
24 Advisory Committee was making its report to the
25 undersecretary Wednesday morning. He was not headed

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1 MS. WILLIAMS: Sure.
2 (Recess.)
3 Q. Just want to clarify a few things.
4 First of all, just so I'm understanding the
5 chronology correctly, Mr. Davis was attending the
6 quarterly refunding conference before he ever had a
7 conversation with you about following embargoes; is
8 that correct?
9 MS. WILLIAMS: Objection.
10 A. That's my understanding.
11 Q. And did you ever have any understanding
12 as to the circumstances under which he had gotten
13 into the quarterly refunding conferences prior to the
14 conversation that you had about -- with him about the
15 embargo?
16 A. No.
17 Q. Okay. And did you ever -- so you don't
18 know whether it was Jill Ouseley, for example, who
19 authorized him to attend?
20 MS. WILLIAMS: Objection.
21 A. I do not.
22 Q. Now, I believe you testified that you
23 said you would not stand in the way if the press
24 office wanted to continue to exclude Mr. Davis from
25 the quarterly refunding conferences; correct?

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1 back to his office, it was his last meeting, I
2 intended to say something to recognize his
3 contributions at the press conference. So since he
4 wasn't in a hurry to leave, I invited him to stay so
5 that I could be public about our thanks for his
6 efforts.
7 Q. So you felt you had the authority to
8 invite him.
9 A. Yes.
10 Q. Okay. But you didn't think that you had
11 the authority to invite Mr. Davis.
12 MS. WILLIAMS: Objection.
13 Q. Is that fair?
14 A. I didn't think I had the authority to
15 overrule the press office.
16 Q. Well, let me flip it around the other
17 way.
18 Let's suppose that the press office had no
19 objection to his being there, but you didn't want him
20 to be there, would you have had the authority to
21 exclude him?
22 A. Oh, I probably would have had a
23 conversation with the press office about it, we would
24 have come to an agreement one way or another, but I
25 can't give a definite answer because it never

25 (Pages 94 to 97)

1 happened.

2 Q. Now, in theory if you and the press
3 office had not been able to see eye-to-eye you would
4 have had to go up higher in the chain of command in
5 the Treasury; fair statement?

6 A. Yes.

7 Q. And I apologize if I asked you this.
8 Did you or with your knowledge your secretary ever
9 clear Mr. Davis into the quarterly refunding
10 conference?

11 A. I did not and I don't know whether my
12 secretary ever did.

13 Q. Was there ever any handouts at the
14 quarterly refunding conferences besides press
15 releases of the sort that we reviewed with Exhibit 1?

16 A. On Wednesday press conferences there
17 would be traditionally three handouts, the press
18 release, the recommendations of the Borrowing
19 Advisory Committee and the minutes of the Borrowing
20 Advisory Committee meeting as taken by member of the
21 Treasury staff.

22 Q. Do you recall whether -- well, would Mr.
23 Davis has received those handouts in the ordinary
24 course if he attended the quarterly refunding
25 conference?

1 whether or not there was ever a written agreement
2 between -- that Treasury had made with Mr. Davis. Do
3 you recall that?

4 A. Yes.

5 Q. Okay. What did Mr. Rossetti and Ms.
6 Williams say to you and what did you say to them?

7 A. They asked me if I knew of such an
8 agreement, I told them no. They mentioned that Mr.
9 Davis had testified that there was such an agreement
10 and I told them that my recollection was different.

11 Q. Okay. If -- now this is, we are talking
12 about events that, if it did happen, it would have
13 been around like ten years ago; right?

14 MS. WILLIAMS: Objection.

15 A. Nine or ten years ago, yes.

16 Q. So bearing that in mind, is it at least
17 possible that you had some agreement or there was
18 some agreement, written agreement with Mr. Davis and
19 you just don't remember it?

20 A. I never had any agreement with Mr.
21 Davis, no.

22 Q. I am talking about something you would
23 have done on behalf of Treasury.

24 A. No.

25 Q. I know you don't remember having made

1 A. He could of.

2 Q. Do you remember whether or not he ever
3 asked for those items or had expressed interest in
4 those items?

5 A. I don't recall.

6 Q. Okay. Now, my client, Steven Nothorn,
7 is he somebody that you know at all?

8 A. I don't recognize the name at all.

9 Q. Now, you mentioned before that although
10 you weren't sure where it came from you had an
11 understanding that if a reporter didn't follow the
12 embargo the reporter would not be permitted to attend
13 future refunding conferences. Did I remember that
14 right?

15 A. Yes.

16 Q. Did that ever occur during, to your
17 knowledge?

18 A. Not to my knowledge.

19 Q. And other than the one incident that you
20 heard about with regard to Mr. Davis, did you ever
21 hear about anyone else ever being excluded from a
22 quarterly refunding conference?

23 A. No.

24 Q. You mentioned that you had discussed
25 with Ms. Williams and Mr. Rossetti the question of

1 it, but if you had, is that the sort of thing that
2 you would have held on to?

3 MS. WILLIAMS: Objection.

4 A. It is not something I would have
5 considered part of my personal papers. Had there
6 ever been such a document, it would have been part of
7 an official Treasury paper.

8 Q. And where would a document like that be
9 stored in Treasury?

10 MS. WILLIAMS: Objection.

11 A. I don't know.

12 Q. When you left Treasury, did you have --
13 you had files that you had been maintaining in the
14 course of your duties; correct?

15 A. Correct.

16 Q. What happened to those?

17 A. I left them there.

18 Q. Was there somebody who was charged with
19 sort of going through your papers and figuring out
20 whether they go to the archives?

21 A. I don't know. I mean there's a set
22 procedure for the secretary, but certainly not for
23 lower, and I don't know how far down the procedure
24 goes.

25 Q. So nobody ever said to you in substance,

EXHIBIT C

**Cited Excerpts from the Deposition Transcript of Brian
Collins
(May 12, 2006)**

Brian Collins

May 12, 2006

Washington, DC

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

- - - - - X
UNITED STATES SECURITIES AND :
EXCHANGE COMMISSION, :
Plaintiff, :
V. : Civil Action No.
STEVEN E. NOTHERN, : 05-10983 (NMG)
Defendant. :

- - - - - X

Washington, D.C.

Friday, May 12, 2006

Videotape Deposition of BRIAN COLLINS, a
witness herein, called for examination by counsel for
the Defendant in the above-entitled matter, pursuant
to notice and subpoena, the witness being duly sworn
by PENNY M. DEAN, a Notary Public in and for the
District of Columbia, taken at the law offices of
Foley Hoag, LLP, 1875 K Street, NW, Washington, D.C.,
at 10:44 a.m., Friday, May 12, 2006, and the
proceedings being taken down by Stenotype by PENNY M.
DEAN, RPR, and transcribed under her direction.

Alderson Reporting Company

1111 14th Street, NW Suite 400 1-800-FOR-DEPO

Washington, DC 20005

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Brian Collins

May 12, 2006

Washington, DC

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1 Q. Do you recall whether the person to whom
2 you spoke was Mr. Rossetti, who is here today?
3 A. The name sounds familiar, but I can't -- I
4 don't remember.
5 Q. Do you remember whether it was a man or a
6 woman with whom you spoke?
7 A. I spoke with a man.
8 Q. By the way, was it only one person with
9 whom you spoke, or was it two people or more?
10 A. I think there was two people on the -- on
11 the phone.
12 MR. RITTINGER: It's the SEC, it's got to
13 be at least two. Sorry.
14 BY MR. SHOPE:
15 Q. So -- and how long did the conversation
16 occur, do you remember?
17 A. I don't remember.
18 Q. Can you give me an estimate? In other
19 words, was it something where you had to spend half a
20 day on it, or was it just like a 15 minute call or a
21 half hour or an hour? Just any kind of parameters
22 you can put on it.
23 A. I would say maybe 20 minutes.
24 Q. And to the best of your -- can you give me
25 the best recollection you have about what was asked

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1 and what you -- in other words, what was the
2 conversation that you had with the SEC?
3 A. They basically asked me about my call to
4 Fannie Mae.
5 Q. And did you tell them what you've told us
6 here today?
7 A. I told them that, yes, I had made a call
8 to Fannie Mae, just like I told you.
9 Q. Did you tell them anything different from
10 what you have said today as far as you can recall?
11 A. I don't think so.
12 Q. And mark that as the next exhibit.
13 (Exhibit No. 2 was marked for
14 identification.)
15 MR. SHOPE:
16 Q. Mr. Collins, I'm showing you what's been
17 marked as Exhibit 2 to your deposition; do you see
18 that?
19 A. Yes.
20 Q. Is this a -- do you recall having received
21 Exhibit 2?
22 A. Yes, I do.
23 Q. So is this -- in other words, does this
24 suggest to you that you did, in fact, speak with the
25 SEC staff on December 14th, 2001?

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1 A. I think it was before December 14th, but
2 yeah, I received this after I spoke to them in the
3 mail. I think it might have been certified or
4 something, I can't remember now.
5 Q. The -- well, Mr. Hathaway says, "thank you
6 for speaking with the staff today."
7 A. Um-hum.
8 Q. You don't have any reason to believe that
9 that was an incorrect statement?
10 A. Oh, no.
11 Q. And did you -- have you attended any
12 Treasury conferences, press conferences, refunding
13 conferences, conferences of any kind after October
14 31, 2001?
15 A. I probably have.
16 Q. And did anyone from the Treasury
17 Department ever say that your ability or right to
18 attend press conferences was going to be restricted
19 or diminished in any way?
20 A. No, no one ever said anything.
21 Q. Did anyone from the Treasury Department
22 ever tell you that -- or anyone from anywhere ever
23 tell you that -- I'm sorry, I'm tired today.
24 Did anyone within the government ever tell
25 you that your ability to -- whether you were going to

Page 61

1 be punished in any way for the events of October 31,
2 2001?
3 A. I have not.
4 Q. And just so I'm clear, as far as you're
5 aware, the SEC never conducted any investigation of
6 your conduct apart from simply having interviewed you
7 on or about December 14, 2001; is that correct?
8 A. They interviewed me, they sent me this
9 letter and that's the last I've heard of it.
10 Q. Okay.
11 A. Until I got a subpoena from you guys.
12 Q. Did you ever hear of any change in the
13 policy of the Treasury Department with regard to
14 press embargoes after the events of October 31, 2001?
15 A. No.
16 Q. Have you ever -- have you written any
17 stories about Treasury refunding conferences or press
18 conferences or -- yeah, Treasury conferences of any
19 kind after October 31, 2001?
20 A. I'm sure I have, I can't -- I can't point
21 to one right now.
22 (Exhibit No. 3 was marked for
23 identification.)
24 BY MR. SHOPE:
25 Q. Mr. Collins, we've passed to you what's

16 (Pages 58 to 61)

Alderson Reporting Company

1111 14th Street, NW Suite 400 1-800-FOR-DEPO

Washington, DC 20005

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EXHIBIT D

**Cited Excerpts from the Deposition Transcript of Peter
Davis
(April 19-20, 2006)**

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 - - - - - X
4 UNITED STATES SECURITIES AND :
5 EXCHANGE COMMISSION, :
6 Plaintiff, :
7 V. : Civil Action No.
8 STEVEN E. NOTHERN, : 05-10983 (NMG)
9 Defendant. :
10 - - - - - X
11 Washington, D.C.
12 Wednesday, April 19, 2006
13 Videotape Deposition of PETER DAVIS, JR.,
14 a witness herein, called for examination by counsel
15 for the Plaintiff in the above-entitled matter,
16 pursuant to notice and subpoena, the witness being
17 duly sworn by PENNY M. DEAN, a Notary Public in and
18 for the District of Columbia, taken at the offices of
19 U.S. Securities and Exchange Commission, 100 F
20 Street, NE, Washington, D.C., at 9:37 a.m.,
21 Wednesday, April 19, 2006, and the proceedings being
22 taken down by Stenotype by PENNY M. DEAN, RPR, and
23 transcribed under her direction.
24
25

Page 94

1 Q. And would this have been around '94, '95?

2 A. I guess. That's so long ago, I can't be

3 certain about the date.

4 Q. But it was before the year 2000?

5 A. Oh, yeah, for sure.

6 Q. How did you contact Mr. Anderson?

7 A. I seem to recall a telephone -- a short

8 telephone conversation and a follow-up letter.

9 Q. What was discussed during the

10 conversation?

11 A. Same thing as in the letter, you know,

12 I've been having difficulty getting these documents

13 after they have been publicly released, would it be

14 possible for me to get authorization to attend the

15 meetings to get them -- get them there.

16 Q. Were you -- you say you had a conversation

17 and then you sent a letter?

18 A. Right.

19 Q. The letter was basically the same --

20 A. The letter that I attend the meetings.

21 MR. STANCIL: Make sure you let her finish

22 her question before you answer, because she's got to

23 take it all down and he's going to object.

24 THE WITNESS: I understand.

25 BY MS. WILLIAMS:

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1 Q. Were you ever given authorization to

2 attend the meetings?

3 A. Yes.

4 Q. By whom?

5 A. By Roger Anderson.

6 Q. And how did Mr. Anderson communicate to

7 you that you had been given authorization to attend

8 the quarterly refunding meetings?

9 MR. THEODOROU: Objection.

10 THE WITNESS: He called me up and said,

11 you can attend, if you swear to honor the embargo and

12 sign the confidentiality agreement.

13 BY MS. WILLIAMS:

14 Q. You say to honor the embargo, what do you

15 mean by that?

16 A. To not release the information that was

17 passed out at the meetings until the embargo time.

18 Q. What was an embargo?

19 A. It is a period of time after the

20 information is passed out until it can be released.

21 Q. And then you said -- did you agree to

22 honor the embargo?

23 A. Yes.

24 Q. You also mentioned signing a

25 confidentiality agreement. Could you tell me whether

Page 96

1 an agreement was signed?

2 A. Yes.

3 Q. Who was the agreement between?

4 A. It was between me and the Treasury

5 Department.

6 Q. Did you sign the agreement?

7 A. Yes.

8 Q. Did someone from Treasury sign the

9 agreement?

10 A. Yes, I -- I remember doing it in Roger's

11 office. I assume he signed it, but --

12 Q. And who drafted the agreement?

13 A. Treasury did.

14 MR. THEODOROU: Objection.

15 BY MS. WILLIAMS:

16 Q. So you did not prepare the agreement?

17 A. No.

18 Q. Did you retain a copy of the agreement?

19 A. Yes.

20 Q. Do you still have a copy of the agreement?

21 A. No.

22 Q. What happened to it?

23 A. I pitched it in August of 2001.

24 Q. Why did you throw it away?

25 A. At that point, I had violated it and I

Page 97

1 threw it away.

2 Q. Do you know if Mr. Anderson retained a

3 copy of the agreement?

4 A. When I walked out of his office, it was

5 sitting on his desk.

6 Q. Did you sign one document or did you sign

7 multiple documents?

8 A. It was one document.

9 Q. Did you have that document photocopied?

10 A. I was given a copy, which I pitched in

11 August 2001.

12 Q. Was anyone else given a copy of that

13 document that you know of?

14 A. No, not that I'm aware of.

15 Q. Do you know approximately how long after

16 you sent the letter to Mr. Anderson asking for

17 authorization to attend the conferences as to when

18 you met with him in his office to sign this

19 confidentiality agreement?

20 A. It was within a week, a few days later.

21 Q. Did you keep a copy of the letter you sent

22 to Mr. Anderson asking for authorization?

23 A. I really don't recall. It must have been

24 on my word processor, but hard drives die and I don't

25 recall seeing it.

25 (Pages 94 to 97)

Page 98	Page 100
<p>1 Q. Before you had these conversations and</p> <p>2 sent the letters to Mr. Anderson, had you ever</p> <p>3 attended a quarterly refunding conference?</p> <p>4 A. No.</p> <p>5 Q. Just before we go to lunch, let me ask</p> <p>6 you, you mentioned Mr. McCarthy was interested in</p> <p>7 documents for the conference.</p> <p>8 A. Um-hum.</p> <p>9 Q. Did you start getting the documents that</p> <p>10 you mentioned from the Tuesday conference as a result</p> <p>11 of Mr. McCarthy's requesting those?</p> <p>12 A. Yes.</p> <p>13 Q. Did any other clients express interest in</p> <p>14 documents from the quarterly refunding conference?</p> <p>15 A. Yeah, there were one or two. I just</p> <p>16 started broadcast faxing them out to all of my</p> <p>17 clients.</p> <p>18 Q. When you received them, you just started</p> <p>19 to send them?</p> <p>20 A. Yeah.</p> <p>21 Q. How would you send them to your clients?</p> <p>22 A. I just said I would start -- when the</p> <p>23 documents had been publicly released, I'd take them,</p> <p>24 I would go back to my office and broadcast fax</p> <p>25 portions of them. I didn't broadcast fax everything,</p>	<p>1 number 2 in the video deposition of Mr. Peter Davis.</p> <p>2 Off the record at 12:04:01 p.m. on April 19, 2006.</p> <p>3 (Whereupon, at 12:04 p.m., the deposition</p> <p>4 in the above-entitled matter was recessed, to</p> <p>5 reconvene at 12:45 p.m., this same day.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 99	Page 101
<p>1 but there were certainly tables they cared about.</p> <p>2 Q. Initially you would send them via fax?</p> <p>3 A. Right.</p> <p>4 Q. Did you ever E-mail those documents?</p> <p>5 A. No, because they -- it was just easier to</p> <p>6 broadcast fax them. At some point in the late '90s,</p> <p>7 Treasury started posting them on their website.</p> <p>8 Q. I just have two more questions before we</p> <p>9 go to lunch. Besides agreeing to honor the embargo,</p> <p>10 was there anything else that you agreed to as a</p> <p>11 condition to gain authorization to the quarterly</p> <p>12 refunding conference?</p> <p>13 A. No.</p> <p>14 Q. Did you ever mention -- did you express to</p> <p>15 Mr. Anderson why you wanted to attend the</p> <p>16 conferences?</p> <p>17 A. I just told him I was having trouble</p> <p>18 getting the documents, and I was told that if I</p> <p>19 attended the meetings, I could get the documents.</p> <p>20 There were certain tables of data that were of</p> <p>21 interest, and I just wanted to find a way to get</p> <p>22 those.</p> <p>23 MS. WILLIAMS: I'd like to break for</p> <p>24 lunch.</p> <p>25 THE VIDEOGRAPHER: This is the end of tape</p>	<p>1 AFTERNOON SESSION</p> <p>2 (1:02 p.m.)</p> <p>3 Whereupon,</p> <p>4 PETER DAVIS, JR.,</p> <p>5 the witness testifying at the time of recess, having</p> <p>6 been previously duly sworn, was further examined and</p> <p>7 testified further as follows:</p> <p>8 EXAMINATION BY COUNSEL FOR PLAINTIFF (RESUMED)</p> <p>9 THE VIDEOGRAPHER: This is the beginning</p> <p>10 of tape number 3 in the videotape deposition of</p> <p>11 Mr. Peter Davis. On the record at 1:02:56 p.m. on</p> <p>12 April 19th, 2006.</p> <p>13 BY MS. WILLIAMS:</p> <p>14 Q. Mr. Davis, before lunch, we were talking</p> <p>15 about a meeting that you had with Roger Anderson in</p> <p>16 which you discussed gaining access to the quarterly</p> <p>17 refunding conferences at Treasury. Was anyone else</p> <p>18 present at the meeting besides you and Mr. Anderson?</p> <p>19 A. One of his assistants.</p> <p>20 Q. Was it a male or female?</p> <p>21 A. It was a female.</p> <p>22 Q. And you don't recall the assistant's name?</p> <p>23 A. She was the one who brought in the</p> <p>24 document.</p> <p>25 Q. Do you know what she looked like?</p>

26 (Pages 98 to 101)

<p style="text-align: right;">Page 261</p> <p>1 A. Right.</p> <p>2 Q. In one document?</p> <p>3 A. Yes.</p> <p>4 Q. So it had a front side that had writing it</p> <p>5 on and a second side?</p> <p>6 A. That's right. And it seemed to be a form,</p> <p>7 it wasn't even necessarily a Treasury form and it had</p> <p>8 some blanks to fill in.</p> <p>9 Q. Did the agreement mention embargo in it?</p> <p>10 A. Whew.</p> <p>11 MS. WILLIAMS: Objection.</p> <p>12 MR. STANCIL: If you recall.</p> <p>13 THE WITNESS: I don't recall.</p> <p>14 BY MR. THEODOROU:</p> <p>15 Q. Did you review the agreement before you</p> <p>16 signed it?</p> <p>17 A. I took three or four minutes to read it in</p> <p>18 a cursory fashion, but said I was to keep the</p> <p>19 information I received confidential and it mentioned</p> <p>20 some U.S. code sections, if I didn't and I signed it,</p> <p>21 that was it.</p> <p>22 Q. So the agreement as best you can recall</p> <p>23 said what?</p> <p>24 A. That I --</p> <p>25 MS. WILLIAMS: Objection, sorry.</p>	<p style="text-align: right;">Page 263</p> <p>1 A. Anderson signed it, I signed it and he had</p> <p>2 an assistant there who signed it as a witness.</p> <p>3 Q. And do you remember who that assistant</p> <p>4 was?</p> <p>5 A. No.</p> <p>6 Q. How long did the meeting with Mr. Anderson</p> <p>7 last?</p> <p>8 A. Ten minutes.</p> <p>9 Q. Did you obtain a copy of the agreement</p> <p>10 after you signed it?</p> <p>11 A. Yes.</p> <p>12 Q. After you got the agreement, what did you</p> <p>13 do with it?</p> <p>14 A. Took it back to my office and filed it.</p> <p>15 Q. Was there a particular file that you put</p> <p>16 it in?</p> <p>17 A. It was a file folder, it was -- years</p> <p>18 later I discovered it wasn't even marked, it was just</p> <p>19 a blank file folder sitting next to my quarterly</p> <p>20 refunding file.</p> <p>21 Q. Did you ever show that agreement to</p> <p>22 anybody else?</p> <p>23 A. No.</p> <p>24 Q. Did you discuss the contents of that</p> <p>25 agreement with anybody else?</p>
<p style="text-align: right;">Page 262</p> <p>1 THE WITNESS: -- was to withhold, divulging</p> <p>2 any information that I obtained from the quarterly</p> <p>3 refunding meetings, you know, until it was authorized</p> <p>4 for public release.</p> <p>5 BY MR. THEODOROU:</p> <p>6 Q. Did the agreement define what embargo</p> <p>7 meant?</p> <p>8 MS. WILLIAMS: Objection.</p> <p>9 THE WITNESS: Not that I recall.</p> <p>10 MR. STANCIL: Make sure you -- wait for</p> <p>11 him to finish the question, give her a chance --</p> <p>12 MR. THEODOROU: We have plenty of time,</p> <p>13 don't worry about it. Listen to the question and</p> <p>14 then you can answer it.</p> <p>15 BY MR. THEODOROU:</p> <p>16 Do you remember the agreement defining</p> <p>17 embargo?</p> <p>18 MS. WILLIAMS: Objection.</p> <p>19 THE WITNESS: I don't recall seeing the</p> <p>20 word embargo in the agreement, there was no</p> <p>21 definition section, there was -- I just don't recall</p> <p>22 that much about the agreement.</p> <p>23 BY MR. THEODOROU:</p> <p>24 Q. Were you the only party whose signature</p> <p>25 appears in the agreement?</p>	<p style="text-align: right;">Page 264</p> <p>1 A. No.</p> <p>2 Q. So it's fair to say you never discussed</p> <p>3 the contents of that agreement with Mr. Nothern,</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. Where was the agreement signed?</p> <p>7 A. On the back, on the second page, bottom of</p> <p>8 the second page.</p> <p>9 Q. Physically where were you when at the time</p> <p>10 when you signed it?</p> <p>11 A. In Roger Anderson's office at the Treasury</p> <p>12 Department.</p> <p>13 Q. Did you ever discuss the existence of the</p> <p>14 agreement with anybody else?</p> <p>15 A. No.</p> <p>16 Q. So that it is fair to say you didn't</p> <p>17 discuss the existence of that agreement with your</p> <p>18 customers?</p> <p>19 A. No.</p> <p>20 Q. And you never discussed the existence of</p> <p>21 the agreement with Mr. Nothern, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Did you ever tell your customers what</p> <p>24 embargo meant?</p> <p>25 A. No.</p>

4 (Pages 261 to 264)

1 BY MR. THEODOROU:
2 Q. So there were cases where reporters called
3 in information to somebody before the embargo time
4 expired?
5 A. For sure.
6 MS. WILLIAMS: Objection.
7 THE WITNESS: For sure.
8 BY MR. THEODOROU:
9 Q. Did you ever discuss with Anderson at your
10 meeting the duration of the agreement, that is how
11 long it would last or allow you to do what you wanted
12 to do?
13 MS. WILLIAMS: Objection.
14 THE WITNESS: Never came up, it was
15 never -- it was never discussed.
16 BY MR. THEODOROU:
17 Q. Based on your understanding of the
18 agreement, the agreement allowed you to share
19 information with others as long as they also honored
20 the embargo, correct?
21 MS. WILLIAMS: Objection.
22 THE WITNESS: That was -- yes.
23 BY MR. THEODOROU:
24 Q. That was your understanding?
25 A. Well, I was going to say that's what lead

1 me to -- disclosing information, starting in 1999 to
2 Word McCarthy, because I knew he would keep the
3 embargo.
4 Q. But you didn't review the terms of your
5 agreement with your customers, correct?
6 A. Correct, that just never came up.
7 Q. Which included not reviewing what embargo
8 meant?
9 A. Correct. It was just something that was
10 never discussed.
11 Q. Now, the agreement with Mr. Anderson, did
12 anyone else at Treasury know about that agreement?
13 A. Well, I had no way of knowing whether they
14 knew it or not, all I knew is whether they let me
15 into the meetings.
16 Q. I think you testified about this earlier,
17 you didn't tell anyone else about the agreement?
18 MS. WILLIAMS: Objection.
19 THE WITNESS: No. That's correct.
20 BY MR. THEODOROU:
21 Q. Now after you enter into this agreement
22 you started attending the refunding conferences?
23 A. Meetings, yes.
24 Q. And what process did you follow in order
25 to attend?

1 A. On Monday of the meeting week, I would at
2 some point on Monday call up Lulu Tyler or whoever
3 was at that phone number and make sure that I was
4 cleared in, that they had my full name, they had my
5 birth date and Social Security number and so that
6 when I showed up to the Treasury window on Tuesday
7 for the Tuesday meeting and -- say I showed up at
8 8:45 or 8:30 or whenever it was, that I would be on
9 the computer, that the guard would give me a badge
10 and that I would be buzzed into the building to go
11 upstairs and attend the meeting.
12 Q. Now, were you already in the computer when
13 you made the call? In other words, when you called
14 Lulu, did she know to look you up and were in the
15 computer and already signed off to attend the meeting
16 or was it ad hoc, that is meeting by meeting?
17 MS. WILLIAMS: Objection.
18 THE WITNESS: Most of the time, she would
19 tell me that she had already put me in and my call
20 was just to guard against the possibility that
21 somehow she had forgotten or she was on vacation or
22 whatever, because once or twice my name wasn't on the
23 list and I was in the position of having to call up
24 to Paul Malvey's office and someone would actually
25 come down and get me.

1 BY MR. THEODOROU:
2 Q. When you say that she said you were
3 already in the computer, what does that mean you were
4 already in?
5 A. I took that to mean that she had entered a
6 list of names, I don't know if mine was the only name
7 on that list or not of authorized persons to get a
8 badge to go to that meeting.
9 Q. And in 1994, what was Ms. Tyler's
10 position?
11 A. I don't recall her title, I just knew her
12 as -- she was an assistant to either Mr. Malvey or
13 Mr. Anderson and she was the person who was my
14 contact for gaining authorization to attend the
15 meeting.
16 Q. So you would call her on Monday?
17 A. Right.
18 Q. And then what would happen?
19 A. I'd say, Hi, Lulu, it is Pete Davis, just
20 calling to make sure I'm on the computer to -- just
21 on the computer to gain authorization of the meeting
22 tomorrow. And she'd say, you're all set. And I'd
23 say, thanks, and that was it.
24 Q. And then what happened?
25 A. The next morning on Tuesday, I would

EXHIBIT E

**Cited Excerpts from the Deposition Transcript of Peter
Fisher
(Aug. 8, 2006)**

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES SECURITIES)

AND EXCHANGE COMMISSION,)

Plaintiff,)

vs.) No. 05-10983
(NMG)

STEVEN E. NOTHERN,)

Defendant.)

-----)

VIDEOTAPED
DEPOSITION OF PETER R. FISHER
New York, New York
August 8, 2006

Reported by:

PAMELA J. MAZZELLA, RPR

JOB NO. 7046

<p>Page 98</p> <p>1 Fisher</p> <p>2 made?</p> <p>3 A. When I was subsequently informed of</p> <p>4 the extreme price swings that took place</p> <p>5 prior to 10 o'clock, I certainly was</p> <p>6 surprised.</p> <p>7 Q. And that was notwithstanding the</p> <p>8 fact that you were expecting price</p> <p>9 volatility?</p> <p>10 A. Yes, I was expecting some price</p> <p>11 volatility. I did not anticipate it would be</p> <p>12 prior to the announcement.</p> <p>13 Q. But you were expecting price</p> <p>14 volatility after the announcement?</p> <p>15 A. Yes.</p> <p>16 Q. But you did see the price start to</p> <p>17 jump up before you made the announcement?</p> <p>18 A. I don't believe I was in a position</p> <p>19 to actually follow the market during that</p> <p>20 time. I may have been working on another</p> <p>21 matter.</p> <p>22 Q. But it was brought to your</p> <p>23 attention after the fact that that had</p> <p>24 happened?</p> <p>25 A. Yes, it was brought to my attention</p>	<p>Page 99</p> <p>1 Fisher</p> <p>2 third floor of the Treasury building just</p> <p>3 outside of the Office of Domestic Finance.</p> <p>4 Q. And do you know what that room is</p> <p>5 called within Treasury?</p> <p>6 A. Secretary's Conference Room. I</p> <p>7 don't recall.</p> <p>8 Q. Are you aware of a room called the</p> <p>9 Diplomatic Reception Room?</p> <p>10 A. That sounds like the name of the</p> <p>11 room.</p> <p>12 Q. And are you aware of another room</p> <p>13 called the Secretary's Conference Room?</p> <p>14 A. That would be the matching one on</p> <p>15 the far side.</p> <p>16 Q. Do you know whether or not the</p> <p>17 Diplomatic Reception Room had been used for</p> <p>18 the Quarterly Refunding Conference before?</p> <p>19 A. Prior to -- no, I don't. As I say,</p> <p>20 I never participated in, never attended a</p> <p>21 press briefing for the quarterly refunding</p> <p>22 before, so I have no knowledge of what rooms</p> <p>23 it took place in.</p> <p>24 Q. So would it be fair to say you had</p> <p>25 no involvement in the selection of which room</p>
<p>Page 100</p> <p>1 Fisher</p> <p>2 after the fact, yes.</p> <p>3 Q. So let's just go to the lead up to</p> <p>4 that day to October 31.</p> <p>5 First of all, did you make any</p> <p>6 changes to how Quarterly Refunding</p> <p>7 Conferences had been handled in the past by</p> <p>8 the Treasury Department?</p> <p>9 A. I don't recall doing so on that</p> <p>10 occasion.</p> <p>11 Q. Do you recall there having been a</p> <p>12 press release announcing that you would be</p> <p>13 the person giving the presentation at the</p> <p>14 Quarterly Refunding Conference?</p> <p>15 A. I don't recall that, no.</p> <p>16 Q. That wasn't anything that you had</p> <p>17 commissioned?</p> <p>18 A. I don't recall.</p> <p>19 Q. Okay. Now, what room was the press</p> <p>20 conference held on October 31?</p> <p>21 That's not a grammatical sentence.</p> <p>22 What was the room that you used for</p> <p>23 the press conference for the quarterly</p> <p>24 refunding on October 31, 2001?</p> <p>25 A. There is a conference room on the</p>	<p>Page 101</p> <p>1 Fisher</p> <p>2 to use?</p> <p>3 A. Yes, that's correct.</p> <p>4 Q. Okay. And --</p> <p>5 A. I don't recall having any</p> <p>6 involvement in that.</p> <p>7 Q. Okay. And now prior to the</p> <p>8 Quarterly Refunding Conference actually</p> <p>9 taking place on October 31, did you have any</p> <p>10 discussion with anyone, this is not just on</p> <p>11 October 31, but any other time in the lead up</p> <p>12 did you have any discussion with anyone in</p> <p>13 Treasury about the embargo procedure?</p> <p>14 A. Yes. I recall a conversation with</p> <p>15 Michelle Davis, the assistant secretary for</p> <p>16 public affairs, about my discomfort with the</p> <p>17 use of an embargo, that I would have been</p> <p>18 much more comfortable with making a direct</p> <p>19 announcement either on the internet or</p> <p>20 without that use of an embargo.</p> <p>21 Q. And why were you uncomfortable with</p> <p>22 the use of an embargo?</p> <p>23 A. I thought the risk of a leak or</p> <p>24 some malfunction, some procedural malfunction</p> <p>25 was too high.</p>

26 (Pages 98 to 101)

ESQUIRE DEPOSITION SERVICES

1-866-619-3925

EXHIBIT F

**Cited Excerpts from the Deposition Transcript of Anthony
Fratto
(Aug. 30, 2006)**

Washington, DC

Page 1

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3

4 -----X

5 UNITED STATES SECURITIES :

6 AND EXCHANGE COMMISSION, :

7 Plaintiff, :

8 V. : Case No. 05-10983

9 STEVEN E. NOTHERN, :

10 Defendant. :

11 -----X

12 Washington, D.C.

13 AUGUST 30, 2006

14 Videotaped deposition of ANTHONY

15 FRATTO, a witness herein, called for examination by
16 counsel for Defendant, in the above-entitled
17 matter, pursuant to notice, the witness being sworn
18 by Raymond Heer, a Notary Public in and for the
19 District of Columbia, taken at the offices of Foley
20 Hoag, Washington, D.C. on August 30, 2006, at 10:35
21 a.m. and the proceedings being taken down by
22 stenotype by Desirae S. Jura, RPR, and transcribed
under her direction.

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1 The catch room at the time, which is a horrible
2 place to try to do a press event, was -- still
3 wasn't opened yet, it was still under
4 reconstruction. So it was the only room available
5 for a press conference of any size.
6 Q. Was the May quarterly refunding conference
7 held in the diplomatic reception room?
8 A. Yeah. I'm pretty sure it was.
9 Q. Was the August 2001 conference held in that
10 room?
11 A. I can't recall that one.
12 Q. Was the secretary's conference room ever
13 used?
14 A. The secretary's conference room? From time
15 to time for different press conferences, it was.
16 And there were -- you know, there were different,
17 it was used for different events. Was it used for
18 a quarterly refunding press announcement? I'm just
19 not sure.
20 Q. You're not sure if the secretary's room was
21 used?
22 A. No, it was. Actually, the May 2nd event was

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1 in the -- actually, the May 2nd event was in the
2 large conference room.
3 Q. The secretary's room is larger than the
4 diplomatic room?
5 A. No. They are fairly identical in size.
6 Maybe it's a little bit larger. But the large
7 conference room is dominated by a massive
8 conference table.
9 Q. So why was the diplomatic reception room,
10 Room 3311, used on October 31?
11 A. It was just more -- it was available, and it
12 was -- it's easier to set it up as a press
13 conference. If you ever want to hold a press
14 conference, a large conference room isn't a useful
15 room for a press conference. It's got a large --
16 imagine this room three times as big, you know,
17 with a table in the middle. It doesn't look like a
18 press conference. You want the podium and
19 classroom seating. And say you don't get that in a
20 large conference room, but you can set up the
21 diplomatic reception room for that kind of event.
22 Q. Now, directing your attention to October

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1 31st, 2001.
2 A. Um-hmm.
3 Q. The conference that day started at 9:00?
4 A. It started at 9:00 or shortly after 9:00,
5 yeah.
6 Q. Was there anyone there from Treasury who had
7 the job of keeping people out of the conference
8 room?
9 MS. WILLIAMS: Objection.
10 A. I don't know if that job had been assigned
11 to anyone. I have no knowledge if it was. I don't
12 know if Betsy gave direction on that or not, but I
13 didn't give anyone direction on that.
14 BY MR. THEODOROU:
15 Q. So, there was nobody -- you did not give
16 anybody any direction to prevent people from coming
17 in and out of the conference room?
18 A. No. Again, Treasury -- it's a different
19 building. You know, if you follow the rules of the
20 building and you are a visitor to the Treasury
21 Building, you should be escorted by a Treasury
22 staffer, who would meet you at the entrance, take

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1 you where you need to be. It's not -- and I'll
2 say, it's not that -- I'm sure there have been
3 cases where people conclude a meeting and file out
4 of the Treasury Building, you know, unescorted.
5 But, that's not -- but anyone who's walking through
6 the halls of the Treasury Building should have a
7 specific reason to be there.
8 Q. Did you take any steps to keep people from
9 leaving the room once the conference started?
10 A. No.
11 Q. Were there any Treasury employees assigned
12 to keep people from leaving the room once the
13 conference started?
14 A. No.
15 Q. Did you take any steps from allowing -- did
16 you take any steps to prevent people from entering
17 the room once the conference started?
18 A. No.
19 Q. Do you know if any Treasury employees were
20 assigned the task of preventing people from
21 entering the room once the press conference
22 started?

41 (Pages 158 to 161)

Washington, DC

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1 A. No. I can't think of a reason why we would
2 prevent people from entering the room.

3 Q. Did you take any steps to check the identity
4 of people who were in the room at the time of the
5 press conference?

6 A. No.

7 Q. Did you take any steps to check the press
8 credentials of people in the room at the time of
9 the press conference?

10 A. Well, if they have press -- they couldn't
11 get into the Treasury Building without press
12 credentials. I mean, if they have a press
13 credential, check the press credential? No.

14 Q. Did you take any steps that day to determine
15 that only the press was attending the conference?

16 A. No.

17 Q. So what happened at the conference? What
18 time did it start?

19 A. It started at 9:00 or shortly after 9:00. I
20 walked into the press conference, into the
21 diplomatic reception room with Peter. I remember
22 Betsy was already in the room. We were about to --

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1 so Peter walked up to the podium. Betsy was about
2 to announce and then did announce that -- she
3 introduced Peter, and then announced that there
4 would be a 10:00 embargo on the press conference.
5 I stood up off to the side. If you want to imagine
6 it, think of it very much like this room with two
7 doors.

8 Q. I'm going to have you draw it out.

9 A. Sure.

10 (Witness complying.)

11 BY MR. THEODOROU:

12 Q. So now let's mark that. That's going to be
13 marked as Exhibit 8. You are going to draw out as
14 best you can --

15 A. As best I can.

16 Q. I don't have a ruler -- entitled The
17 Diplomatic Reception Room. Right?

18 A. Yep.

19 (FRATTO Exhibit Number 8 was marked for
20 identification.)

21 BY MR. THEODOROU:

22 Q. So if you could please mark the doors, the

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1 podium, and relevant hallways on that document.

2 A. Um-hmm. So here's the hallway. I will
3 just -- this may be helpful also. Peter fisher's
4 office was right across the hall.

5 Q. Could you please mark --

6 A. Sure.

7 Q. -- Mr. Fisher's office.

8 So when you say you came into the conference
9 room with Mr. Fisher, you entered into that door?

10 Could you mark that door as door A. And then mark
11 the other doors as B, C, and D.

12 All right. What else was in that room that
13 day?

14 A. So I've got a podium here.

15 Q. Could you mark that as podium.

16 A. And then I'm not going to get the number
17 right, but --

18 Q. And the Xs indicate chairs?

19 A. Chairs. This is -- I couldn't tell you how
20 many, I'm not good at this kind of estimating, but
21 how many chairs are in the room. But I think this
22 is probably fairly representative. So what we

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1 would call, yeah, classroom style seating.

2 Q. Now, you entered with Mr. Fisher. And
3 approximately where were you during the press
4 conference?

5 A. Standing right here.

6 Q. By the door which is -- if you'd indicate
7 with your last name where you were.

8 A. Sure.

9 Q. So your back was to door B?

10 A. Near door A. My back was to -- well.

11 Q. You would have been facing the podium?

12 A. I would have been facing the podium, and
13 then the reporters here.

14 Q. And where was Ms. Holahan?

15 A. I think Betsy was right next to me, but I
16 don't remember specifically.

17 MS. WILLIAMS: At what point?

18 BY MR. THEODOROU:

19 Q. To the best of your knowledge.

20 MS. WILLIAMS: At what point?

21 A. When we walked in, Betsy was here. And this
22 is --

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1 de-link press conference from the release of the
2 statements. So we released the statement first in
3 the Treasury pressroom, and then the press
4 conference is held an hour later. So the statement
5 is down in the Treasury pressroom for release at
6 9:00 a.m., and the press conference is held at
7 10:00.

8 Q. Any other changes?

9 A. We try to keep a closer watch on who's in
10 our press conferences, although it's not quite as
11 important at that time since the news has already
12 been released. But we keep a tighter rein on all
13 of our press conferences.

14 Q. Was there any change in whether the
15 attendees were to be press members or members of
16 the public?

17 A. They can be members -- basically, the Office
18 of Public Affairs has complete authority on who
19 attends a press conference. So even if policy
20 staff within Treasury, if general counsel wants to
21 attend a press conference, they need to ask our
22 permission.

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1 (FRATTO Exhibit Number 17 was marked for
2 identification.)

3 BY MR. THEODOROU:

4 Q. Mr. Fratto, let me show you what's been
5 marked as Exhibit 17. Do you see that?

6 A. I do.

7 Q. Have you seen that document before?

8 A. Yes.

9 Q. And what is it?

10 A. It's our statement on procedures for
11 quarterly refunding announcements.

12 Q. And when did this set of procedures go into
13 effect?

14 A. January 30th of 2002.

15 Q. Now, according to this, if you look at the
16 second paragraph, it says, "Starting with the next
17 scheduled refunding announcement on January 30,
18 2002, Treasury's Office of Public Affairs will post
19 the announcement on the Treasury Web site at 9:00
20 a.m." Do you see that?

21 A. Yes.

22 Q. So the announcement, does that mean that the

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1 announcement goes public -- the announcement of the
2 conference goes on the Web site. Correct?

3 MS. WILLIAMS: Objection.

4 A. It's saying we will post the announcement.

5 The announcement, meaning the statement of the
6 quarterly refunding --

7 BY MR. THEODOROU:

8 Q. That it's going to take place?

9 MS. WILLIAMS: Objection.

10 A. No. That's referring to the statement. To
11 the news.

12 BY MR. THEODOROU:

13 Q. The statement would go out at 9:00. So it
14 goes public at 9:00?

15 A. That's exactly right.

16 Q. And the announcement also will be delivered
17 to credentialed members of the media in the
18 Treasury pressroom shortly before 9:00 a.m. with
19 lockdown embargo rules.

20 Correct?

21 A. Correct.

22 Q. So the difference between this and the

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1 procedures that govern the prior conferences was
2 the announced -- you set a time at which the
3 announcement will go out. Right?

4 A. Yes.

5 MS. WILLIAMS: Objection.

6 A. Oh, I'm sorry. We set a time. In both
7 cases, we're setting a time.

8 BY MR. THEODOROU:

9 Q. But in this case, you said that the
10 announcement, beginning on January 30, 2002 would
11 go out at 9:00 a.m. Correct?

12 A. Yes.

13 Q. That announcement would also be delivered to
14 credentialed members of the media in the Treasury
15 pressroom shortly before 9:00 a.m. Correct?

16 A. Correct.

17 Q. It also says with lockdown embargo rules.
18 Do you see that?

19 A. Yes.

20 Q. And what did that mean?

21 A. That means that when we deliver the
22 documents to the Treasury pressroom, that they

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1 cannot leave the pressroom.

2 Q. And there were no lockdown rules in effect
3 before January 30th, 2002. Correct?

4 A. That's correct.

5 Q. And it says, "The traditional practice of
6 releasing the quarterly refunding announcement at a
7 news conference will be discontinued."

8 Do you see that?

9 A. Yes.

10 Q. That meant that there would no longer --
11 does that mean that there would no longer be a news
12 conference?

13 A. No. It just meant that the release of the
14 statement and the news conference would be
15 de-linked. That the events, they wouldn't occur in
16 the same event.

17 Q. So the statement, in contrast to October
18 31st where a statement was released there and given
19 to members of the media --

20 A. And all previous quarterly refunding
21 announcements, that I'm aware of.

22 Q. Beginning on January 30, 2002, it would not

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1 be released to them at the press conference?

2 A. That's right. They would have had it
3 already.

4 Q. Now, under these new policies, are reporters
5 allowed to make telephone calls before 9:00 a.m.?

6 A. You mean before 9:00 a.m. after receiving
7 the document?

8 Q. Yes.

9 A. It depends on who they call.

10 Q. But it doesn't state in here who they can
11 call. Does it?

12 A. No. That would be -- the rules of an
13 embargo are the rules of an embargo.

14 Q. But are they allowed to call someone?

15 A. Who?

16 Q. Before 9:00 a.m.?

17 A. Who? It depends on who they may decide to
18 call. Can they call a member of the general
19 public? No. Can they call their editor? Yes.

20 Q. And have you instructed members of the press
21 that they can only call their editors?

22 MS. WILLIAMS: Objection.

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1 A. No. It's not necessary.

2 BY MR. THEODOROU:

3 Q. Can they call anybody else besides their
4 editors at the media outlets?

5 A. They can call members of their news
6 organization. They can talk to each other.

7 Q. So they can call anybody at their news
8 organization?

9 A. They can call anyone at their news
10 organization.

11 Q. When it says shortly before 9:00 a.m., what
12 does that mean?

13 A. That's purposefully ambiguous. It could be
14 five minutes before, it could be 15 minutes before.
15 We can decide.

16 Q. And it's Treasury who decides this.
17 Correct?

18 A. Yes.

19 Q. Not the press?

20 A. No.

21 Q. Now, have you taken the discretion away from
22 the press with these new procedures?

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1 MS. WILLIAMS: Objection.

2 A. We've give the press exceptional discretion
3 in setting embargoes. If you are asking about this
4 specific case?

5 BY MR. THEODOROU:

6 Q. Yes.

7 A. I would say we maintain control of the
8 discretion as we have the discretion in October.

9 Q. Well, in the case of quarterly refunding
10 conferences, the press is no longer polled about
11 what time the embargo or how long the embargo
12 should be. Correct?

13 A. The embargo is pre-set. The embargo is 9:00
14 a.m. The question of how long they have the
15 document before the embargo, that's completely at
16 our discretion.

17 Q. Now, under the new procedures, does an
18 employee of Public Affairs explain the embargo
19 policy when the press conference takes place at the
20 quarterly refunding conferences?

21 A. No. Not that I'm aware of.

22 Q. Does anybody from the Office of Public

EXHIBIT G

**Cited Excerpts from the Deposition Transcript of David
Harris
(July 25, 2006)**

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

- - - - - x
UNITED STATES SECURITIES :
AND EXCHANGE COMMISSION, :
Plaintiff, : C.A. 05-10983 (NMG)
vs. :
STEVEN E. NOTHERN, :
Defendant. :

- - - - - x

VIDEOTAPED DEPOSITION OF DAVID HARRIS

Reported by:

Linda C. Mead, CSR, CCR
Tampa, FL
Tuesday, July 25, 2006

Tampa, FL

<p style="text-align: right;">Page 66</p> <p>1 Q Okay.</p> <p>2 A So there would have been no clerical</p> <p>3 errors through there.</p> <p>4 Q Okay. Let's go through your -- the</p> <p>5 information you have on your entry at 12:40 and 11</p> <p>6 seconds. You say, The file has a timestamp of on</p> <p>7 the production server RWRR. What does that mean?</p> <p>8 A Okay. This file -- This information was</p> <p>9 gathered from the production machine. That first</p> <p>10 field, RWRR, is the file permissions. What that</p> <p>11 tells us is who has -- who has access to that file,</p> <p>12 whether it's read, write, execute, which are</p> <p>13 standard Unix permissions.</p> <p>14 Q What does that -- What does that mean?</p> <p>15 A Okay. This means that the world basically</p> <p>16 has read access to the file and the owner has the</p> <p>17 ability to read and write or make changes to the</p> <p>18 file.</p> <p>19 Q Then there's a IUST press treas. What</p> <p>20 does that -- Actually I guess it's 1 space UST press</p> <p>21 space. What does that 1 mean?</p> <p>22 A The 1 I have no idea.</p> <p>23 Q What does UST press mean?</p> <p>24 A That would have been the user name that</p> <p>25 owned that file.</p>	<p style="text-align: right;">Page 68</p> <p>1 When a file is changed into Unix, it records when</p> <p>2 that file -- the time and date when that file was</p> <p>3 last edited.</p> <p>4 Q When it was last edited?</p> <p>5 A Edited. Changed.</p> <p>6 Q So in terms of the process going from</p> <p>7 desktop to staging, staging to production, what</p> <p>8 would that mean?</p> <p>9 A The way that the -- our -- the WorldCom</p> <p>10 Solaris product worked is when a file was uploaded</p> <p>11 from their desktop to the staging machine it got a</p> <p>12 timestamp. And then when that file was pushed from</p> <p>13 staging to production using CMS it would have</p> <p>14 preserved that timestamp that was on the staging</p> <p>15 machine.</p> <p>16 So in this case it would have meant that</p> <p>17 file was moved from their desktop to the staging</p> <p>18 machine on October 31st at 9:40 a.m.</p> <p>19 Q Now, you say that's a -- it's an actual</p> <p>20 timestamp that's put on the file?</p> <p>21 A That's correct.</p> <p>22 Q All right. And you're saying that that</p> <p>23 9:40 represents when it went from the desktop to the</p> <p>24 staging server?</p> <p>25 A That's correct. That is the time that the</p>
<p style="text-align: right;">Page 67</p> <p>1 Q And treas, t-r-e-a-s?</p> <p>2 A Would have been the group that owned that</p> <p>3 file.</p> <p>4 Q What does 9175 indicate?</p> <p>5 A That is the size of the file in bytes.</p> <p>6 Q October 31, what is that?</p> <p>7 A That is the date that that file was last</p> <p>8 changed.</p> <p>9 Q And then there's a date there at 9:40.</p> <p>10 What does that mean?</p> <p>11 A That would have been 9:40 a.m. And that</p> <p>12 would have been when the file was last changed.</p> <p>13 Q How do you know that's 9:40 a.m.?</p> <p>14 A It would have been on 24-hour time.</p> <p>15 Q Military time?</p> <p>16 A That's correct.</p> <p>17 Q And then PO749 dot HTM. What does that</p> <p>18 mean?</p> <p>19 A That is the name of the file.</p> <p>20 Q That's the file that the treasury was</p> <p>21 asking you when did it go from staging to</p> <p>22 production?</p> <p>23 A That's correct.</p> <p>24 Q Now, what does that time 9:40 mean?</p> <p>25 A That means when the file was last changed.</p>	<p style="text-align: right;">Page 69</p> <p>1 staging server reports.</p> <p>2 Q And the source of this information, this</p> <p>3 UST press, the 9175, the date and the time of 9:40</p> <p>4 and then the file name PO749, what was the source of</p> <p>5 that?</p> <p>6 A That was from the production server</p> <p>7 itself. The operating system reported that as the</p> <p>8 time, date, name and server of the owner and the</p> <p>9 file permissions.</p> <p>10 Q And you cut and pasted that information</p> <p>11 from the production server to the -- to your ticket</p> <p>12 here?</p> <p>13 A That's correct.</p> <p>14 Q And the reason why this 9:40 is listed on</p> <p>15 the production server because that -- You get a</p> <p>16 timestamp. When you go from desktop to staging, you</p> <p>17 get a timestamp. In this case it was 9:40, correct?</p> <p>18 A That's correct.</p> <p>19 Q And then when it's pushed from the pro --</p> <p>20 staging server to the production server, it</p> <p>21 preserves that timestamp, that original timestamp?</p> <p>22 A That's correct.</p> <p>23 Q You say on page two, it says, This matches</p> <p>24 the timestamp of the file on the staging server when</p> <p>25 it was pushed using CMS. What does that mean?</p>

18 (Pages 66 to 69)

Tampa, FL

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<p>1 questions and I'll be finished and Mr. Toone can ask</p> <p>2 you some questions.</p> <p>3 With regard to when information is on the</p> <p>4 staging server, are you aware of any searches that</p> <p>5 you can do on Google, Yahoo, whatever, that would</p> <p>6 get you to information that would be on the staging</p> <p>7 server?</p> <p>8 MR. TOONE: Objection.</p> <p>9 THE DEPONENT: It's possible that they</p> <p>10 might. Like I said, I'm not exactly sure how</p> <p>11 they go about building their searching database</p> <p>12 to do stuff, but it's possible that they could.</p> <p>13 I doubt it, but it's possible.</p> <p>14 BY MR. ROSSETTI:</p> <p>15 Q Why do you doubt it?</p> <p>16 A I think most of the time those sites work</p> <p>17 by gathering what people already view and then</p> <p>18 indexing that and then making it easier to search</p> <p>19 from there. For the most part people who would be</p> <p>20 visiting the staging machine would only be people</p> <p>21 who would be involved in the development of the</p> <p>22 server.</p> <p>23 MR. ROSSETTI: Okay. Mr. Harris, I don't</p> <p>24 have any further questions for you. Mr. Toone</p> <p>25 will ask you questions, and then based on his</p>	<p>1 have an IP address, routers, gateways, whatever,</p> <p>2 which is a method of identifying each individual</p> <p>3 piece of hardware.</p> <p>4 Q So is an IP address a location on the</p> <p>5 internet?</p> <p>6 A It's a location of a piece of device. It</p> <p>7 doesn't necessarily have to be on the internet.</p> <p>8 Every network device that exists that uses TCP/IP has</p> <p>9 an IP address. It could be --</p> <p>10 For instance, a home network, each device</p> <p>11 in a home network would also have an IP address. It</p> <p>12 may not be accessible to the entire internet itself,</p> <p>13 but anything that runs TCP/IP as a network would have</p> <p>14 an IP address.</p> <p>15 Q Well, how do you know if an IP address is</p> <p>16 accessible by the internet?</p> <p>17 A You would know by -- There are certain IP</p> <p>18 addresses that are not routable to the internet.</p> <p>19 There are some that are firewalled that are not</p> <p>20 accessible by the internet.</p> <p>21 For instance, if you own a company you --</p> <p>22 and you want to have internet access for all your</p> <p>23 employees but you don't want the internet to be able</p> <p>24 to connect to servers inside your company, you would</p> <p>25 block that access from the outside in. You can do</p>
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<p>1 questioning I might have some further</p> <p>2 clarifying questions for you.</p> <p>3 THE DEPONENT: All right.</p> <p>4 EXAMINATION</p> <p>5 BY MR. TOONE:</p> <p>6 Q Are you okay with going ahead or would you</p> <p>7 like to take a break?</p> <p>8 A Oh, no. I'm good right now.</p> <p>9 Q Okay. Well, let me know if you want to</p> <p>10 take a break, because we've been going for awhile.</p> <p>11 A Okay.</p> <p>12 Q First of all, thank you very much for</p> <p>13 coming today and testifying. And my knowledge of</p> <p>14 computer technology is not very well advanced, so I</p> <p>15 apologize if I repeat or ask questions that you may</p> <p>16 have already covered with Mr. Rossetti, but I just</p> <p>17 want to make sure my understanding is clear. Okay?</p> <p>18 A Okay.</p> <p>19 Q What exactly is an IP address?</p> <p>20 A IP address is what the internet uses to</p> <p>21 designate a server or a device on the internet.</p> <p>22 It's a method for identifying where something is.</p> <p>23 So the -- So each server would have at least one IP</p> <p>24 address on it where anybody who wants to find</p> <p>25 something would go to it, and devices would also</p>	<p>1 that.</p> <p>2 Q Can you tell by looking at an IP address</p> <p>3 whether or not it is available on the internet?</p> <p>4 A Some of them you can. Some you can't.</p> <p>5 Q How can you tell those that you can --</p> <p>6 that you know are available on the internet, how can</p> <p>7 you tell?</p> <p>8 A They have a specific network range that</p> <p>9 are called non-routable IP addresses that you know</p> <p>10 are not accessible.</p> <p>11 Q Okay. Now, looking at Exhibit 3 at the</p> <p>12 first page there are 10 IP addresses listed on the</p> <p>13 first page. Can you tell by looking at those IP</p> <p>14 addresses whether or not they're available on the</p> <p>15 internet?</p> <p>16 A They are all available.</p> <p>17 Q They are. And how do you know that?</p> <p>18 A Because they are all routable IP</p> <p>19 addresses.</p> <p>20 Q And can you just explain what -- what in</p> <p>21 those IP addresses tells you that those -- that they</p> <p>22 are available on the internet?</p> <p>23 A The first -- The first set of numbers, the</p> <p>24 208, is all you really need to know.</p> <p>25 Q What does that tell you?</p>

23 (Pages 86 to 89)

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1 A It tells us that it's not in that list of
2 IP addresses that's public, that's private.
3 Q Okay. Now, a file that is moved to one of
4 these IP addresses that is available on the
5 internet, does that mean that that document -- that
6 file, excuse me, is available at a particular
7 internet location?

8 A That's correct. On the web. Because
9 we're all dealing with web servers for all this
10 stuff.

11 Q Right. Can you just explain what that
12 distinction means.

13 A The whole -- Using like Internet Explorer,
14 Netscape, whatnot, to view a serve -- view a web
15 page is a method of accessing files on the internet.
16 It's one specific program I guess basically using
17 html and stuff.

18 There are different parts of the internet
19 that most people don't deal with that don't involve
20 web pages. Because we did nothing but web pages --
21 well, mostly web pages here, all this stuff would
22 have been dealing with web pages.

23 Q Okay. That's helpful. Thank you.

24 Now, in November 2001 you worked for
25 WorldCom, correct?

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1 A I believe it was WorldCom, yeah.

2 Q And you didn't work for the treasury
3 department directly?

4 A No.

5 Q Okay. Did you have any experience in
6 setting up either the production machine or the
7 staging machine used by treasury?

8 A I may have done some initial setups. I
9 don't recall at that time.

10 Q Okay. Do you recall now having worked on
11 any of the setups?

12 A Actually physically setting them up?

13 Q Yes.

14 A I don't know.

15 Q Do you have any specific knowledge as to
16 where exactly the IP address is listed on --
17 under -- on Exhibit 3, page 1, the five IP addresses
18 listed under host location 1 colon STAG dash 13A?
19 Do you have any direct recollection working on those
20 particular IP addresses?

21 MR. ROSSETTI: I'm sorry. What was the
22 question?

23 BY MR. TOONE:

24 Q The question -- Well, let me --

25 Do you understand the question?

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1 A I'm get -- I'm thinking you're asking me
2 if I've -- if I recall actually working on any of
3 those specific IP addresses.

4 Q That is my question, yes.

5 A Specifically no.

6 Q Do you have any knowledge as to who had
7 access to any of those five IP addresses?

8 A It would have been -- Specifically it
9 would have been any of the people listed under
10 technical contacts. Whether or not they actually
11 excess -- accessed them, I don't know.

12 Q Okay.

13 A We know the IP address they came from and
14 the user name and password -- well, user name they
15 used. Which individual person did all that we don't
16 know.

17 Q Okay. So you're pointing to on page 1 of
18 Exhibit 3 the technical contacts; Brad Green,
19 Jeffrey West, Tim Clapin. Are those the contacts
20 that you're referring to?

21 A That's correct.

22 Q And your testimony is that you believe
23 that those people had access to the IP addresses
24 associated with the staging server?

25 A They would have, yes.

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1 Q Okay. Do you know who else did or did not
2 have access to those IP addresses?

3 A No, I don't. We know that -- We know that
4 they were given a specific IP address and a user
5 name and password. Whether the customer had a
6 development team of more than 3 people or 20 people
7 we don't know.

8 Q Do you know anything about whether
9 treasury had procedures to keep these IP addresses
10 from being known to other people?

11 A I don't know.

12 Q And just to clarify what I believe you
13 testified to earlier, a document that is FTP'd -- Is
14 that a proper term FTP'd?

15 A That's correct.

16 Q -- from a desktop to this staging server,
17 that document is placed on the internet; is that
18 correct?

19 A That's correct.

20 Q So looking on page 2 of Exhibit 3, the
21 second line down, the file was FTP'd to the staging
22 server at 9:40 colon 23 a.m. on October 31st -- Did
23 I read that correctly?

24 A That's correct.

25 Q That sentence means that the file in

24 (Pages 90 to 93)

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1 question was moved to the internet at that time?
2 MR. ROSSETTI: Objection.
3 THE DEPONENT: On the staging server,
4 that's correct.
5 BY MR. TOONE:
6 Q But in being moved to the staging server
7 it was placed on the internet; is that correct?
8 A Yes.
9 Q Let me just back up a little bit. Do you
10 read computer magazines or other periodicals?
11 A Yes.
12 Q Which ones do you read?
13 A Oh, God. There are so many.
14 Q Can you just list some that you tend --
15 that you typically read.
16 A There's The Wired magazine. Computer
17 Shopper. Slash Dot's a website of computer
18 articles. There's several of them. Some of the
19 ones I can think of off the top of my head.
20 Q Okay. Great.
21 And why do you read those publications?
22 A Basically to -- entertainment and to keep
23 up with what's going on.
24 Q Right. Right. To keep yourself current
25 with current developments and information

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1 technology?
2 A That's correct.
3 Q What did you do to prepare for this
4 deposition?
5 A I spoke with Mr. Rossetti on the phone
6 going over the contents of this ticket.
7 Q And you're referring to Exhibit 3?
8 A Yes.
9 Q Sorry. I need to do that for the record.
10 A That's fine. Yes.
11 Q When did you speak with Mr. Rossetti?
12 A I don't know the exact times and dates.
13 Q Approximately how long ago did you first
14 speak with Mr. Rossetti?
15 A Maybe a month ago I guess. I don't have
16 the dates and times listed on me.
17 Q That's fine. Did you speak with him by
18 telephone?
19 A That's correct.
20 Q And how long did you speak with
21 Mr. Rossetti for?
22 A The first time I believe may have been two
23 hours, three hours. I don't recall.
24 Q Two or three hours?
25 A Something like that.

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1 Q And what did Mr. Rossetti tell you he was
2 calling in regards to?
3 A The contents of this ticket. He said that
4 there was some investigation going on about what was
5 going on back then.
6 Q Did he explain to you how this ticket was
7 relevant to the investigation?
8 A He may have. I don't recall.
9 Q What knowledge do you have now about this
10 case?
11 A I -- Basically from my understanding there
12 was -- that around this time frame that the treasury
13 department was -- excuse me, was making some kind of
14 notification they weren't going to be issuing the
15 30-year bond or something, and that this went out
16 early before it was supposed to. Something around
17 that effect. I don't know too many details.
18 Q Anything else that you recall?
19 A No, not really.
20 Q And is that information based on your
21 conversation with Mr. Rossetti?
22 A I don't know. It could have been
23 knowledge from what was happening back then. It
24 could have been from calls. I don't know where that
25 came from. It's floating around in here somewhere.

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1 Q Now, you said you spoke with Mr. Rossetti
2 approximately maybe a month ago; is that correct?
3 A I'm guessing, yeah.
4 Q Okay. Did you speak with him again since
5 then?
6 A Yes.
7 Q When do you last -- When did you speak
8 with him next, sir?
9 A I don't recall. Actually thinking back,
10 the first time might have been like two or three
11 months ago, and then another time maybe a month ago
12 when we were going over this again and setting up a
13 deposition date.
14 Q And on both occasions you reviewed
15 Exhibit 3, the ticket?
16 A I think so. I don't know if we did it
17 when we actually set the date up.
18 Q How did you have a copy of the ticket
19 during these phone calls?
20 A It was e-mailed to me by Mr. Rossetti.
21 Q Do you recall when he e-mailed the ticket
22 to you?
23 A It would have been the first time we
24 talked.
25 Q Had you seen the ticket before

25 (Pages 94 to 97)

EXHIBIT H

**Cited Excerpts from the Deposition Transcript of Elizabeth
Holahan
(Aug. 23, 2006)**

August 23, 2006

• Elizabeth Schmutz

Washington, DC

Page 1

1 UNITED STATES DISTRICT COURT
 2 DISTRICT OF MASSACHUSETTS
 3 -----)
 4 UNITED STATES SECURITIES AND)
 5 EXCHANGE COMMISSION,)
 6 Plaintiff,)
 7 v.) No. 05-10983 (NMG)
 8 STEVEN E. NOTHERN,) August 23, 2006
 9 Defendant.)
 10 -----)

11 Washington, D.C.
 12 Videotape Deposition of ELIZABETH HOLAHAN SCHMUTZ, a
 13 witness herein, called for examination by counsel for
 14 Defendant in the above-entitled matter, the witness
 15 being duly sworn by CHERYL A. LORD, a Notary Public
 16 in and for the District of Columbia, taken at the
 17 offices of FOLEY HOAG LLP, 1875 K Street, N.W., Suite
 18 800, Washington, D.C., at 10:16 a.m., Wednesday,
 19 August 23, 2006, and the proceedings being taken down
 20 by Stenotype by CHERYL A. LORD, RPR, CRR, and
 21 transcribed under her direction.

22

Elizabeth Schmutz

August 23, 2006

Washington, DC

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<p>1 Q. Turning your attention -- directing your 2 attention to October 31, 2001, the refunding 3 conference, did you address the attendees? 4 A. Yes. 5 Q. What did you say? 6 A. I informed the attendees of the press 7 conference that there would be an embargo in place 8 until 10 AM. 9 Q. Did you tell them what embargo meant? 10 A. I did not. 11 Q. Were you aware that there were attendees 12 who were not members of the press at that conference? 13 A. I was not aware of attendees at the press 14 conference not being members of the press or the 15 Treasury Department. 16 Q. How long did you speak to the audience? 17 A. A few seconds. 18 Q. A few seconds? 19 A. A few seconds. 20 Q. About what time did you address them? 21 A. Approximately 9 AM before the press 22 conference began.</p>	<p>1 MR. THEODOROU: During the time that she 2 was there from October -- she started in August -- 3 MS. WILLIAMS: August. 4 MR. THEODOROU: -- to her knowledge before 5 October 31st, 2001. 6 BY MR. THEODOROU: 7 Q. To your knowledge, did Treasury ever 8 obtain the consent of the attendees to abide by 9 the -- by an embargo? 10 A. To my knowledge, no. 11 Q. All right. Did you obtain a consent from 12 anybody who attended the October 31, 2001, refunding 13 conference to abide by the embargo? 14 A. No. 15 Q. Did you ask any of the attendees to 16 express their consent to the terms of the embargo? 17 A. No. 18 Q. So you simply told them an embargo time 19 and assumed that they would honor it? 20 MS. WILLIAMS: Objection. 21 A. I told members of the media the ground 22 rules for the press conference.</p>
Page 63	Page 65
<p>1 Q. As best you can recall, could you please 2 tell us what you said. 3 A. I said, approximately something along the 4 lines of, this information is embargoed until 10 AM. 5 I reannounced -- I reannounced that at the 6 end of the press conference. 7 Q. And about what time was that? 8 A. 9:25 AM. 9 Q. When you addressed them at about 9 AM, you 10 did not tell them what the embargo meant. 11 Correct? 12 A. Correct. 13 Q. When you readdressed them at 9:25 AM, did 14 you tell them what embargo meant? 15 A. No. 16 Q. Do you know before October 31, 2001, if 17 Treasury ever obtained the consent of the attendees 18 at quarterly refunding conferences to abide by the 19 embargoes? 20 MS. WILLIAMS: Objection. 21 And just to clarify, back to the beginning 22 of time, or --</p>	<p>1 BY MR. THEODOROU: 2 Q. And those ground rules were what? 3 A. There was an embargo in place until 10 AM. 4 MR. THEODOROU: I have an exhibit. 5 (Holahan Exhibit No. 1 6 was marked for 7 identification.) 8 BY MR. THEODOROU: 9 Q. All right. Ms. Holahan, I'm showing you 10 what's been marked as exhibit 1. 11 Do you see that? 12 A. I do see it. 13 Q. Do you recognize that document? 14 A. I do recognize it. 15 Q. And what is it? 16 A. It's a summary of an interview that I gave 17 on November 7th, 2001. 18 Q. And you've seen that document before. 19 Correct? 20 A. Correct. 21 Q. When did you see it the first time? 22 A. When I met with the attorneys from the</p>

17 (Pages 62 to 65)

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<p>1 Securities and Exchange Commission and the Treasury 2 Department this past spring. 3 Q. And most recently, when did you see it? 4 A. Yesterday. 5 Q. And you reviewed it. 6 Correct? 7 A. I reviewed it at both of those meetings, 8 yes. 9 Q. All right. Now, if you -- since you've 10 reviewed it, if you want to take your time and look 11 at it again, because I'm going to be asking you some 12 questions, you can take the time to look at it. 13 (Pause.) 14 BY MR. THEODOROU: 15 Q. Do you see it? 16 A. I see it. 17 Q. All right. And you recall being 18 interviewed by officials from the SEC and the 19 Treasury Department inspector general's office in 20 2001. 21 Correct? 22 A. Correct.</p>	<p>1 Q. All right. And what did you tell them 2 about the honor system? 3 A. I explained that there's an agreement 4 between the office of public affairs and the 5 reporters that we will give them information in 6 advance of the event to help them write their 7 stories, we will not post the item on the Web site 8 until the agreed-upon time, the embargo time, and 9 that then they are to hold their stories until said 10 time, and then release them at the same time, so if 11 that agreement is not honored, then we will not give 12 them the privilege of having the information in 13 advance. 14 Q. You remember talking about an agreement 15 with the reporters? 16 A. I don't recall my exact words. 17 Q. Did you are tell reporters what would 18 happen to them if the embargo was not honored? 19 A. When? 20 Q. At the conference, the press conference -- 21 A. No, I did not. 22 Q. -- when you spoke on October 31st?</p>
Page 67	Page 69
<p>1 Q. Now, during the interview, you told the 2 SEC and the OIG from the Department of the Treasury 3 that reporters were governed by the honor system not 4 to release the information before the embargo time. 5 Do you remember saying that? 6 MS. WILLIAMS: Objection. 7 MR. ROSSETTI: Which page are you on? 8 Which page are you on, Nick? 9 MR. THEODOROU: I would quote it. 10 BY MR. THEODOROU: 11 Q. Page 2, the end of the first paragraph: 12 She added that she gave -- all right? -- the ground 13 rules and that the reporters are governed by the 14 honor system to not release the information prior to 15 the embargo time. 16 Correct? 17 A. I do recall describing that to the 18 interviewers at that day. 19 Q. Okay. So by looking at this document, it 20 refreshes your recollection about some additional 21 details about what you said that day? 22 A. Yes.</p>	<p>1 A. No. 2 Q. Now, you didn't obtain any consents from 3 them to honor the embargo. 4 Correct? 5 A. Correct. 6 Q. You simply spoke about the embargo time? 7 A. Correct. 8 Q. Now, you testified earlier you addressed 9 the reporters twice. 10 A. That is what -- 11 Q. Right? 12 A. -- I recall today, yes. 13 Q. Now, you testified -- not "testified," but 14 when you were interviewed, you said you addressed 15 them 3 times. 16 A. Correct. 17 Q. Does this refresh your recollection as to 18 talking to them a third time? 19 A. Sitting here today -- 20 Q. Exhibit 1? 21 A. -- I do not recall addressing them the 22 third time before the question-and-answer period.</p>

18 (Pages 66 to 69)

Elizabeth Schmutz

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Page 106	Page 108
<p>1 until 10 AM.</p> <p>2 Q. Yeah, a news embargo.</p> <p>3 And it applies to whom?</p> <p>4 A. The members of the media who are being</p> <p>5 invited to attend the press conference.</p> <p>6 Q. Now, again directing your attention to</p> <p>7 October 31, 2001, who was allowed to attend the</p> <p>8 quarterly refunding conferences?</p> <p>9 A. Are you referring to the press conference?</p> <p>10 Q. Yes.</p> <p>11 When I say, refunding conference, I mean,</p> <p>12 press conference also.</p> <p>13 MR. ROSSETTI: Just for your</p> <p>14 clarification, there's --</p> <p>15 MR. THEODOROU: I know there's --</p> <p>16 MR. ROSSETTI: -- a 3-day thing.</p> <p>17 BY MR. THEODOROU:</p> <p>18 Q. I'm talking about the actual October 31st,</p> <p>19 9 AM conference.</p> <p>20 Who is allowed to attend that conference,</p> <p>21 the refunding --</p> <p>22 A. Members of the media are invited to</p>	<p>1 A. As I just said, news events hosted by the</p> <p>2 office of public affairs were open to all</p> <p>3 credentialed news media.</p> <p>4 Q. And what was the process in obtaining</p> <p>5 credentials?</p> <p>6 In other words, if I wanted to attend the</p> <p>7 press conference, what would I be required to do?</p> <p>8 A. I'm speculating here, but if you called</p> <p>9 the office of public affairs and wanted to attend an</p> <p>10 event, you would be asked, what media outlet are you</p> <p>11 associated with.</p> <p>12 If you did not have a media outlet, you</p> <p>13 would be told you could not attend.</p> <p>14 Q. What do you mean by, a media outlet?</p> <p>15 A. Do you write for a newspaper, do you have</p> <p>16 a radio program, do you have a television program.</p> <p>17 Q. And did the office of public affairs look</p> <p>18 for some kind of proof that the person was actually</p> <p>19 from a newspaper, radio program, or television</p> <p>20 station?</p> <p>21 A. In order to be cleared into the building,</p> <p>22 you have to present your -- you have to give your</p>
Page 107	Page 109
<p>1 attend.</p> <p>2 Q. Is anyone else invited?</p> <p>3 A. Not to my knowledge.</p> <p>4 Q. To your knowledge, were private business</p> <p>5 consultants ever allowed to attend those conferences?</p> <p>6 MS. WILLIAMS: Objection.</p> <p>7 A. The office of public affairs which hosted</p> <p>8 the news conference did not invite anyone except for</p> <p>9 the media.</p> <p>10 BY MR. THEODOROU:</p> <p>11 Q. Well, who at Treasury was responsible for</p> <p>12 deciding who could attend the press conferences?</p> <p>13 A. News conferences were open to all members</p> <p>14 of the media.</p> <p>15 Q. Did anyone else have the authority to</p> <p>16 allow others outside of the media to attend the</p> <p>17 conferences?</p> <p>18 A. I'm not aware of anyone having that</p> <p>19 authority.</p> <p>20 Q. And who at the office of public affairs</p> <p>21 was in charge of determining who could attend the</p> <p>22 conferences?</p>	<p>1 Social Security number, your date of birth, your full</p> <p>2 name, and your media organization name to Frances</p> <p>3 Anderson, and she will then relay that information to</p> <p>4 the Secret Service, and they will do a quick</p> <p>5 background check on you, cursory, and then you will</p> <p>6 be put on a list and you will be admitted to the</p> <p>7 building.</p> <p>8 Q. And to your knowledge, was this the</p> <p>9 procedure in effect in October 2001?</p> <p>10 A. Yes, it was.</p> <p>11 Q. Did the Department of the Treasury have</p> <p>12 official written policies on who could and could not</p> <p>13 attend quarterly refunding press conferences?</p> <p>14 A. Not to my knowledge.</p> <p>15 Q. Directing your attention again to exhibit</p> <p>16 1, which was your recorded memorandum of interview</p> <p>17 Look at the bottom paragraph, the last</p> <p>18 paragraph.</p> <p>19 It says: Holahan said she did not know</p> <p>20 Peter Davis and only heard his name after the fact.</p> <p>21 She did not clear him into the press conference.</p> <p>22 Do you see that?</p>

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August 23, 2006

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<p>1 A. It's a reasonable assumption to make that</p> <p>2 Tera would have not allowed them to leave once the</p> <p>3 press conference was under way and the information</p> <p>4 was being disseminated.</p> <p>5 Q. But do you recall charging her with the</p> <p>6 responsibility of doing that?</p> <p>7 A. Not specifically, no.</p> <p>8 Q. And do you know if she did that?</p> <p>9 A. I recall seeing her standing back by the</p> <p>10 door.</p> <p>11 Q. Right.</p> <p>12 But do you recall whether she prevented</p> <p>13 anyone from leaving once the conference started?</p> <p>14 A. I don't recall anyone trying to leave.</p> <p>15 Q. Okay. Were there any Treasury Department</p> <p>16 employees outside of the door to prevent someone from</p> <p>17 coming into the conference once it started?</p> <p>18 A. I don't recall.</p> <p>19 Q. Did any Treasury employee check the</p> <p>20 identity of the credentials of people who entered the</p> <p>21 room?</p> <p>22 A. No.</p>	<p>1 Q. Okay. And is that your recollection</p> <p>2 today?</p> <p>3 A. Yes.</p> <p>4 Q. All right. Is it that no one left the</p> <p>5 room, or you do not recall -- or you did not see</p> <p>6 anyone leave the room?</p> <p>7 MS. WILLIAMS: Objection.</p> <p>8 A. I did not see anyone leave the room.</p> <p>9 BY MR. THEODOROU:</p> <p>10 Q. Okay. So you really don't know whether</p> <p>11 someone left the room.</p> <p>12 You just did not see anybody leave the</p> <p>13 room?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. Were there any procedures in place</p> <p>16 to prevent the attendees from leaving the conference</p> <p>17 before it was over?</p> <p>18 A. I believe I just answered that.</p> <p>19 Q. And what was your answer?</p> <p>20 A. I just asked me a series of questions</p> <p>21 about if there was someone there to block them, and</p> <p>22 answered those questions.</p>
Page 127	Page 129
<p>1 Q. Was there a guard to prevent someone from</p> <p>2 leaving the room other than --</p> <p>3 A. No.</p> <p>4 MS. WILLIAMS: Objection.</p> <p>5 A. No, not to my knowledge.</p> <p>6 BY MR. THEODOROU:</p> <p>7 Q. Do you know if there was any guard that</p> <p>8 was assigned to prevent someone from leaving before</p> <p>9 the conference was over?</p> <p>10 A. Not to my knowledge.</p> <p>11 Q. Now, directing your attention again to</p> <p>12 exhibit 1, which is your memorandum of interview --</p> <p>13 A. M-hm.</p> <p>14 Q. -- if you take a look at it.</p> <p>15 You said in there at the bottom of the</p> <p>16 first paragraph on the second page, and I quote: She</p> <p>17 said no one left the room prior to the conclusion of</p> <p>18 the conference at approximately 9:25 AM.</p> <p>19 Now, do you remember testifying about</p> <p>20 that -- I mean, telling them about that in your</p> <p>21 interview?</p> <p>22 A. Yes.</p>	<p>1 Q. Now, you testified -- now, the room at the</p> <p>2 time when the conference was taking place, there were</p> <p>3 cameras in the room.</p> <p>4 Correct?</p> <p>5 A. Correct.</p> <p>6 Q. And there were also cameras and lights in</p> <p>7 the room?</p> <p>8 A. I recall cameras being in the room.</p> <p>9 Q. Again to your own knowledge, you did not</p> <p>10 see anybody leave the room?</p> <p>11 A. I did not see anyone leave the room.</p> <p>12 Q. Okay. But you do not know if someone left</p> <p>13 the room?</p> <p>14 MS. WILLIAMS: Objection.</p> <p>15 A. Correct.</p> <p>16 I did not see anyone leave the room.</p> <p>17 BY MR. THEODOROU:</p> <p>18 Q. The doors were not locked.</p> <p>19 Correct?</p> <p>20 A. Correct.</p> <p>21 Q. To your knowledge, has the Department of</p> <p>22 the Treasury used written confidentiality agreements?</p>

33 (Pages 126 to 129)

Elizabeth Schmutz

August 23, 2006

Washington, DC

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<p>1 Q. It's all right.</p> <p>2 A. -- coming into the office and --</p> <p>3 Q. I knew that was coming.</p> <p>4 A. -- having a conversation and giving him</p> <p>5 the email. I recall giving him the emails.</p> <p>6 Q. And those are the emails you testified</p> <p>7 about earlier --</p> <p>8 A. Yes.</p> <p>9 Q. -- the emails --</p> <p>10 A. Correct.</p> <p>11 Q. -- to Ms. Anderson that are in the</p> <p>12 document?</p> <p>13 A. The ones -- exhibits 6 and 7.</p> <p>14 Q. Now, in his report, he said that you</p> <p>15 arranged a meeting for -- with Mr. Fratto.</p> <p>16 Do you see that at the bottom of --</p> <p>17 A. I do.</p> <p>18 Q. -- page --</p> <p>19 A. I think we walked down to Tony's office.</p> <p>20 Q. Who was at that meeting?</p> <p>21 You, Mr. Vagle, Mr. Fratto?</p> <p>22 A. I don't remember exactly that meeting, but</p>	<p>1 office before that, the Inspector General's Office?</p> <p>2 A. I don't recall.</p> <p>3 Q. Now, when you met with the SEC and someone</p> <p>4 from the Office of General Counsel of the Treasury on</p> <p>5 November 7th, did they explain the reason for the</p> <p>6 investigation?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And what did they say?</p> <p>9 A. They explained that the Securities and</p> <p>10 Exchange Commission was there to interview people</p> <p>11 that had been involved with this particular situation</p> <p>12 and to answer the questions truthfully.</p> <p>13 Q. Did anyone at Treasury ever tell you that</p> <p>14 you violated any Treasury policies or rules on</p> <p>15 embargoes?</p> <p>16 A. No.</p> <p>17 Q. Were you ever informed by anyone at</p> <p>18 Treasury that you had done something wrong on October</p> <p>19 31st?</p> <p>20 A. No.</p> <p>21 Q. Do you know if Treasury took any</p> <p>22 disciplinary or employment action against anyone</p>
Page 251	Page 253
<p>1 that's what it appears to indicate from this memo.</p> <p>2 Q. Do you remember what was discussed at that</p> <p>3 meeting with Mr. Fratto?</p> <p>4 A. I don't specifically recall the meeting</p> <p>5 itself, so I'm just going off the memo here.</p> <p>6 Q. All right. Now, I showed you as exhibit 1</p> <p>7 today the memorandum of activity or the summary of</p> <p>8 your interview with Mr. Sporkin and Ms. Filou of the</p> <p>9 SEC.</p> <p>10 Do you remember that?</p> <p>11 A. I do.</p> <p>12 Q. Was the Office of Inspector General of the</p> <p>13 Department of the Treasury present, someone from</p> <p>14 Treasury present at that?</p> <p>15 A. I mean, according to the memorandum, it</p> <p>16 says that there was someone there from IG's office,</p> <p>17 but I don't recall who that person was.</p> <p>18 Q. But you do remember somebody from the</p> <p>19 general counsel's office?</p> <p>20 A. It was Megan.</p> <p>21 Q. Now, before that meeting on November 7,</p> <p>22 2001, did you speak to anybody else from the IG's</p>	<p>1 because of the events of October 31st?</p> <p>2 A. I'm not aware of any action taken.</p> <p>3 Q. And after October 31st, did you continue</p> <p>4 to work on quarterly refunding press conferences</p> <p>5 announcements?</p> <p>6 A. I did, yes.</p> <p>7 Q. Did Treasury make any changes to its</p> <p>8 policies and procedures in quarterly refunding press</p> <p>9 conferences following October 31st?</p> <p>10 A. Yes, it did.</p> <p>11 Q. Okay. And when were those changes made?</p> <p>12 A. Immediately after the 31st, and they were</p> <p>13 in place for the subsequent quarterly refunding</p> <p>14 announcements.</p> <p>15 Q. And who contributed to the changes?</p> <p>16 A. Tony Fratto, myself.</p> <p>17 Q. Anybody else?</p> <p>18 A. Not that I can recall.</p> <p>19 Q. All right. And what kind of changes were</p> <p>20 made?</p> <p>21 A. Instead of having a press conference in</p> <p>22 order to announce the information, the information</p>

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1111 14th Street, NW Suite 400

Washington, DC 20005

EXHIBIT I

**Cited Excerpts from the Deposition Transcript of Paul
Malvey
(June 23, 2006)**

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS
3 - - - - -)
4 UNITED STATES SECURITIES AND)
5 EXCHANGE COMMISSION,)
6 Plaintiff,)
7 v.) No. 05-10983 (NMG)
8 STEVEN E. NOTHERN,)
9 Defendant.)

10 - - - - -)
11 Washington, D.C.

12 Friday, June 23, 2006

13 Deposition of PAUL FRANCIS MALVEY, a witness herein,
14 called for examination by counsel for Defendant in
15 the above-entitled matter, pursuant to agreement, the
16 witness being duly sworn by CHERYL A. LORD, a Notary
17 Public in and for the District of Columbia, taken at
18 the offices of FOLEY HOAG LLP, 1875 K Street, N.W.,
19 Suite 800, Washington, D.C., at 10:10 a.m., Friday,
20 June 23, 2006, and the proceedings being taken down
21 by Stenotype by CHERYL A. LORD, RPR, CRR, and
22 transcribed under her direction.

23

24

25

Page 266	Page 268
<p>1 Q. -- the one that we've made an exhibit?</p> <p>2 A. Well, let me just make sure, because this</p> <p>3 is the folder I had.</p> <p>4 Oh, gee, yeah, my doodles.</p> <p>5 Q. Okay.</p> <p>6 A. All right. Okay.</p> <p>7 Now, why don't we mark that as the next</p> <p>8 exhibit. Give that here.</p> <p>9 Q. I'm showing you what's been marked as</p> <p>10 exhibit 12 to your deposition.</p> <p>11 A. Okay. Do you want what I'm doodling on</p> <p>12 today?</p> <p>13 Q. Well, why don't we just deal with exhibit</p> <p>14 12 for the time being.</p> <p>15 A. Okay. All right.</p> <p>16 Q. Now, for exhibit 12, first of all, the top</p> <p>17 line says, attorney-client priv. I assume that's --</p> <p>18 A. Privilege.</p> <p>19 Q. -- attorney-client privilege.</p> <p>20 What's that a reference to?</p> <p>21 A. I met with the SEC and Tom McGivern there.</p> <p>22 I don't know whether he said I did or -- somebody</p> <p>23 said I either did or did not have any attorney-client</p> <p>24 privilege. I don't recall.</p> <p>25 The second one was Privacy Act. That's</p>	<p>1 announcement, I was coming up in here -- me and</p> <p>2 somebody else in my office and a political appointee,</p> <p>3 usually deputy assistant secretary, goes up to New</p> <p>4 York Fed and interviews primary dealers all day-long.</p> <p>5 And on the Friday before that, we put on</p> <p>6 our Web site the gender (sic) of questions I'm</p> <p>7 interested in asking these primary dealers so that</p> <p>8 everybody knows what we're interested in terms of</p> <p>9 policy.</p> <p>10 And at the height of the primary -- of the</p> <p>11 primary dealer community, there were 44. And while</p> <p>12 was talking, I said, you know, at one time there were</p> <p>13 44. That meant we'd see roughly 12 every quarter.</p> <p>14 And then there was 22. I said, that means we see</p> <p>15 half the community every quarter.</p> <p>16 And now I -- then I said -- I didn't write</p> <p>17 down now -- I think there's only a dozen or so</p> <p>18 primary dealers, so they probably see them all every</p> <p>19 quarter.</p> <p>20 So that's total number of primary dealers,</p> <p>21 how many per quarter, number of primary dealers more</p> <p>22 recently, number of -- number per quarter, and now</p> <p>23 they probably --</p> <p>24 Q. Adjacent to the 44, it looks like there's</p> <p>25 something like a bullhorn.</p>
Page 267	Page 269
<p>1 why I should -- I don't recall why I -- I do know I</p> <p>2 said, don't speculate -- they said, don't speculate,</p> <p>3 if you know it, say it, if you don't know it, don't</p> <p>4 speculate.</p> <p>5 But Privacy Act, I -- I --</p> <p>6 Q. Now, there's -- to the right of that --</p> <p>7 the box that has the words in it, there's some lines</p> <p>8 to it, another box that looks something like the</p> <p>9 Confederate flag.</p> <p>10 Does that have any meaning?</p> <p>11 A. It's pure doodle.</p> <p>12 Q. Okay. And then I assume that the</p> <p>13 geometric figure below that is also a pure doodle?</p> <p>14 A. Yeah.</p> <p>15 Started out as an egg, and I tried to make</p> <p>16 it a -- a hectagon (phonetic) or sexagon</p> <p>17 (phonetic) -- or sentagon (phonetic)?</p> <p>18 Q. All right. Sort of in the middle of the</p> <p>19 page, it looks like 4 numbers, 34, 12, 22, and 11,</p> <p>20 each within its own unique geometric figure.</p> <p>21 A. They weren't there when I was written</p> <p>22 by -- but I created it, yeah.</p> <p>23 Q. Do those numbers represent anything?</p> <p>24 A. Yeah.</p> <p>25 I was talking about the Friday before our</p>	<p>1 Does that have any meaning?</p> <p>2 A. Not -- not related to this or anything</p> <p>3 like this. I figure -- I was trying to -- I was</p> <p>4 trying to draw some type of horn. You're right. I</p> <p>5 mean, I -- I drew 2 lines, and once I flared this one</p> <p>6 out, I tried to make that into a horn. I said, well,</p> <p>7 let me see if I can do it the other --</p> <p>8 Q. But it has nothing to do with the events</p> <p>9 of October 31, 2001?</p> <p>10 A. No.</p> <p>11 You talk to SEC lawyers for a while,</p> <p>12 you'll find yourself doing this.</p> <p>13 Q. Okay. And then on the left side, there's</p> <p>14 again some geometric figures.</p> <p>15 Any meaning?</p> <p>16 A. None whatsoever.</p> <p>17 Q. Okay. Well, perhaps you pursued the wrong</p> <p>18 career. Maybe modern art --</p> <p>19 A. Yeah, right.</p> <p>20 Q. Okay. And now did you become aware of</p> <p>21 any -- well, let me ask you this: Did Treasury take</p> <p>22 any personnel action with regard to the release of</p> <p>23 the decision to suspend the long bond?</p> <p>24 MR. McGIVERN: Objection.</p> <p>25 I'm directing the witness not to answer.</p>

68 (Pages 266 to 269)

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1 MR. SHOPE: I'm just asking a general
2 question without getting into any particular person
3 at this time.

4 MR. McGIVERN: Objection.

5 MR. SHOPE: Well, first of all, I don't
6 think it's proper for you under the Federal Rules of
7 Civil Procedure or anything else to be directing the
8 witness not to answer.

9 In fact, it's in my view sanctionable
10 under the local rules of the District of
11 Massachusetts. That's point 1.

12 Point 2, I'm not asking about any
13 particular person at this time, so let's just start
14 out with a general question. I can't invade
15 anybody's privacy.

16 MR. McGIVERN: Objection.

17 BY MR. SHOPE:

18 Q. Could you go ahead and answer the
19 question.

20 THE WITNESS: Do I answer or not?

21 No.

22 MR. SHOPE: All right. We're going --
23 again, right now, let's take this bit by bit.

24 I think you're on very thin ice,
25 Mr. McGivern, and at this point -- first of all,

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1 you've represented to me that you don't represent
2 this witness. So the idea that you can be
3 instructing him not to answer questions I think is
4 doubly questionable.

5 MR. McGIVERN: No.

6 And I represent the Department of the
7 Treasury, and the Department of the Treasury
8 employees at interest.

9 Now, as I mentioned to you in our
10 conversations, witnesses can waive their own privacy
11 rights, but witnesses cannot waive other people's
12 privacy rights.

13 MR. SHOPE: Well, I'm not -- my starting
14 question without even agreeing that it's improper for
15 me to ask about particular individuals, right now I'm
16 just asking it as a general question.

17 MR. McGIVERN: Yeah, but you have other
18 forums including asking the Department of the
19 Treasury if they did that. So you know there are
20 other --

21 MR. SHOPE: You may recall that the
22 government has taken the position in this case that
23 it doesn't have to produce any documents from the
24 Department of the Treasury, so --

25 MS. WILLIAMS: I disagree with that

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1 representation. That's not at all the government's
2 position. In fact the SEC has produced many
3 documents from the Department of the Treasury.

4 MR. SHOPE: Well, I think the record
5 speaks for itself on that point.

6 MS. WILLIAMS: I do too.

7 MR. McGIVERN: I do as well.

8 MR. SHOPE: So the bottom line is that
9 this is in my view outrageous instruction. So I'm
10 going to give a last chance to withdraw the
11 objection.

12 MR. McGIVERN: I don't withdraw the
13 objection.

14 MR. SHOPE: Well, it's obvious that there
15 was some discipline, and it's very damaging to the
16 government's position.

17 MS. WILLIAMS: I object to that statement.

18 MR. McGIVERN: Objection.

19 BY MR. SHOPE:

20 Q. Okay. Was there any criticism by anyone
21 of your own actions in connection with the release of
22 the decision to suspend the long bond?

23 A. No.

24 Q. Okay. Are you familiar with a phone
25 number, 202-543-6078?

Page 273

1 A. That's my fax number.

2 Q. Okay. Fax number at home?

3 A. Yeah.

4 Q. Okay. Do you -- are you familiar with a
5 phone number, 202-530-3901?

6 A. 3901 -- I'm --

7 Q. What about 202-543-6078?

8 A. That's -- that was the first one.

9 Q. Okay. I apologize.

10 THE VIDEOGRAPHER: Is this a good place to
11 change the tape?

12 MR. SHOPE: I just have one more question.

13 BY MR. SHOPE:

14 Q. Were you aware that the SEC subpoenaed
15 your telephone records?

16 A. I don't recall. I don't think I was aware
17 of that.

18 Q. It's the sort of thing that you would
19 remember, wouldn't you?

20 A. Yeah, I guess.

21 MR. SHOPE: Okay. Why don't we go ahead
22 and take a break and change the tape.

23 THE VIDEOGRAPHER: This is the end of tape
24 number 4 in the video deposition of Paul F. Malvey.
25 Off the record at 4:28:50 PM on June 23rd, 2006.

69 (Pages 270 to 273)

EXHIBIT J

**Cited Excerpts from the Deposition Transcript of Jill
Ouseley
(July 24, 2006)**

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 05-CV-10983 NMG

Securities and Exchange
Commission,

Plaintiff,

vs.

Steven E. Nothorn,

Defendant.

VIDEOTAPED DEPOSITION OF JILL OUSELEY

July 24, 2006
1:58 p.m. - 5:17 p.m.

Esquire Deposition Services
1819 Main Street
Suite 250
Sarasota, Florida 34236

REPORTED BY:

NANCY E. PAULSEN

Registered Professional Reporter

Notary Public, State of Florida at Large

Esquire Deposition Services - Sarasota, Florida

941-364-2200 (800-838-2814)

Job No.: N 811629

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Also Present:

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1 security official guarding the doors to the room where
2 the press conference was held?

3 MR. ROSSETTI: Objection.

4 A. The building, as you know, is rather heavily
5 guarded. I don't recall any specific guards at the door
6 --

7 BY MR. TOONE:

8 Q. Okay.

9 A. -- of the conference room.

10 Q. Do you recall any other Treasury employee
11 guarding the doors to the conference room?

12 MR. ROSSETTI: Objection.

13 A. No.

14 BY MR. TOONE:

15 Q. Once a person had made it into the Treasury
16 building, was there anything to prevent that person from
17 entering the room where the press conference was being
18 held?

19 MR. ROSSETTI: Objection.

20 A. Not that I know of. Except if a public
21 affairs person didn't recognize them and might ask them
22 who they are. But I don't know.

23 BY MR. TOONE:

24 Q. Did you ever see that happen, where a public
25 affairs person asked a -- an attendee --

Page 62

1 A. I don't remember any.

2 Q. So that -- you're speculating about what might
3 have happened, --

4 A. Could.

5 Q. -- but you never actually saw it happen?

6 A. That's correct.

7 Q. Was there anything to prevent someone who was
8 attending the press conference from walking out before
9 it was over?

10 MR. ROSSETTI: Objection.

11 A. No.

12 BY MR. TOONE:

13 Q. Now, who normally attended the quarterly
14 refunding press conferences? What kind of people?

15 A. People from the news wire service, and
16 Treasury staff, and O.M.B., one gentleman from O.M.B.
17 came over from time to time, but he's an economist.

18 Q. Do you recall any officials from any
19 government agencies other than this person from O.M.B.
20 attending the conferences?

21 A. No.

22 MR. ROSSETTI: You just might want to ask her
23 the acronym.

24 MR. TOONE: O.M.B.? Oh, yes.

25 MR. ROSSETTI: Yeah.

Page 63

1 BY MR. TOONE:

2 Q. Can you tell us for the record what O.M.B. is?

3 A. Office of Management and Budget.

4 MR. TOONE: For the record, I already knew
5 that, but that's good, thank you, John, for making
6 the record clear. That's one of the few acronyms I
7 can say I know from past experience.

8 BY MR. TOONE:

9 Q. Were you familiar with most the people who
10 attended conferences on a regular basis?

11 A. Yes. Most.

12 Q. Would you go --

13 A. How do you mean familiar?

14 MR. ROSSETTI: You can just stick it on your
15 tie like this.

16 MR. TOONE: Oh, that's a good idea. Thank
17 you.

18 BY MR. TOONE:

19 Q. I guess would you know generally who they were
20 or what office or company they were associated with?

21 A. I'd recognize faces.

22 MR. TOONE: Could you mark this as an exhibit,
23 please?

24 (Marked Deposition Exhibit Number 4.)

25 BY MR. TOONE:

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1 Q. I'm showing you what's been marked Exhibit
2 Number 4. And this is a promotional material by an
3 office called Davis Capital Investment Ideas. And for
4 the record, it's Bates stamped -- the first page of the
5 document is Bates stamped SEC/NOTH 00107206.

6 Mrs. Ouseley, do you recall seeing this
7 document before?

8 A. No.

9 Q. Can you look on the fourth page of this
10 document, Exhibit 4?

11 Do you see the heading "Who we are"?

12 A. Yes.

13 Q. And you see that picture on the right-hand
14 side at the top of the page?

15 A. I see the picture.

16 Q. And under that picture is the caption "Peter
17 J. Davis, Jr., President"?

18 A. I see that.

19 Q. Do you recognize this man?

20 A. No.

21 Q. Have you ever seen him before in any context?

22 A. Not that I remember.

23 Q. Do you think it's possible that a person like
24 Peter Davis could have attended multiple refunding
25 conferences during your time and you would not have seen

EXHIBIT K

**Cited Excerpts from the Deposition Transcript of Brian
Roseboro
(June 27, 2006)**

New York, NY

Page 1

1

2 UNITED STATES DISTRICT COURT

3 FOR THE DISTRICT OF MASSACHUSETTS

4 -----X

5 UNITED STATES SECURITIES AND

6 EXCHANGE COMMISSION,

7 Plaintiff,

8 - against -

9 STEVEN E. NORTHERN,

10 Defendant.

11 CIVIL ACTION NO.: 05-10983 (NMG)

12 -----X

13 450 Lexington Avenue
14 New York, New York

15 June 27, 2006
16 2:06 p.m.

17 VIDEOTAPED DEPOSITION of BRIAN
18 ROSEBORO, pursuant to Notice, before Melissa
19 Gilmore, a Notary Public of the State of New
20 York.

21

22

23

24

25

New York, NY

Page 134

1 A. I'm saying I don't have firsthand
2 knowledge of it.
3 Q. And you don't have secondhand
4 knowledge of it or thirdhand knowledge?
5 MS. WILLIAMS: Objection.
6 A. Correct.
7 Q. Sitting here today, you don't
8 remember anybody at Treasury telling you that
9 they had consulted with the White House, but it
10 may have happened?
11 A. Correct.
12 Q. It says, "Roseboro said other than
13 the premature web site posting, he was not
14 aware of any early disclosure of the Treasury's
15 announcement to suspend sales of the 30-year
16 bond." Was that accurate?
17 A. No, because, again, as I told you,
18 Jimmy Capra called me. Does this refer to the
19 Jimmy Capra call anywhere here? Jimmy Capra
20 called me somewhere in the window between 9:20,
21 9:40, something like that. So, no, it's not
22 accurate.
23 Q. Had you told the SEC and Treasury
24 investigators about Mr. Capra's call?
25 A. I'm sure I did.

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1 Q. Now, it then says in -- the last
2 paragraph on the second page of Exhibit 5 says,
3 "Roseboro said he did not know Peter Davis. He
4 said he only became aware of who he was after
5 the controversy involving allegations of
6 violation of the embargo of the press
7 announcement."
8 Those two sentences were accurate, I
9 take it?
10 A. Um-hum.
11 Q. You have got to say yes or no.
12 A. Yes.
13 Q. Then it says, "Roseboro said it was
14 his understanding that Davis was not a member
15 of the press but had been 'grand-fathered in'
16 to attend this and previous Treasury quarterly
17 funding press conferences." Do you see that?
18 A. Yes.
19 Q. Is this Inspector General report
20 accurately recording what your statement was to
21 the investigators with regard to that last
22 sentence that I just read?
23 A. As it relates to the first sentence
24 after the controversy, yes, people continued to
25 talk about this, of course, in talking with

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1 Paul Malvey, okay, who is this guy, and that's
2 where I gathered that understanding of it.
3 Q. So notwithstanding the fact that
4 there was an investigation pending, you did
5 actually go back and talk to Mr. Malvey to try
6 to get more details about what had happened?
7 A. No, I wouldn't necessarily
8 characterize it that way. In the going back
9 and forth of the day, the event, the week, that
10 information came out. I did not -- did I go to
11 Paul Malvey and go, Paul, who was this guy,
12 give me the history of him, why is he here, how
13 did he get in here? No, I did not do that.
14 Q. Without getting into any particular
15 names, was anybody at Treasury disciplined in
16 connection with the premature release of the
17 decision to suspend the long bond?
18 DI MR. MCGIVERN: Objection. I'm
19 directing the witness not to answer.
20 Q. Are you going to follow
21 Mr. McGivern's instruction?
22 A. Yes.
23 Q. Was there any discipline of you in
24 connection with the premature release of the
25 decision to suspend the long bond?

Page 137

1 A. No.
2 Q. Was there any criticism of you by
3 anyone in connection with the premature release
4 of the decision to suspend the long bond?
5 A. Not that I know of.
6 Q. At some point Mr. Fisher left,
7 correct?
8 A. October '03.
9 Q. Just about two years after these
10 events, correct?
11 A. Correct.
12 Q. At that point were you then
13 appointed the Undersecretary of domestic
14 finance to replace him?
15 A. No, I was appointed the Acting
16 Undersecretary of domestic finance. There was
17 a person -- intent to nominate person for the
18 Undersecretary position, Ken Lead of Goldman
19 Sachs.
20 Q. What happened with that nomination?
21 A. I don't recall the technical thing,
22 whether his nomination was withdrawn or -- but
23 he did not continue on the path to get the job.
24 Q. When were you nominated?
25 A. To best of my recollection, maybe

35 (Pages 134 to 137)

EXHIBIT L

**Cited Excerpts from the Rule 30(b)(6) Deposition
Transcript of Verizon Business (Anne Wilson)
(Oct. 6, 2006)**

Washington, DC

Page 1

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 DISTRICT OF MASSACHUSETTS
3 (Boston Division)

4 - - - - - x

5 UNITED STATES SECURITIES AND)
6 EXCHANGE COMMISSION,)
7 Plaintiff,)

8 v.) Civil Action

9 STEVEN E. NOTHERN,) No. 05-10983

10 Defendant.) (NMG)

11 - - - - - x

12 Washington, D.C.

13 Friday, October 6, 2006

14 Video 30(b)(6) Deposition of:

15 ANNE LAWRENCE WILSON,

16 a witness called for examination in the
17 above-entitled action, beginning at 10:14 a.m.

18 before JOE W. STRICKLAND, RPR, CRR, a notary
19 public in and for the District of Columbia, taken
20 at the offices of the Securities and Exchange
21 Commission, 100 F Street, NE, Washington, DC
22 20549, when were present:

Page 74

1 A. Because of the way our system works,
2 the rdist system that copies the file from one
3 server to another maintains the file header info,
4 the timestamp. So it would have, when it copied
5 the file from the staging server over to the
6 production server, it copied -- it used the same
7 timestamp.

8 Q. So this 9:40, just to clarify, is not
9 the time that it landed on the production server?

10 A. Right.

11 Q. It would have been the time it was last
12 updated on the staging server?

13 A. Uh-huh. Yeah, updated on the staging
14 server or initially copied onto the staging
15 server. FTP doesn't work the same way rdist
16 does. Once the file was uploaded, it would have
17 gotten a new stamp on the staging server.
18 Because it was most likely changing operating
19 systems going from Windows to Solaris.

20 Q. If you could turn to the second page of
21 the document.

22 A. Uh-huh.

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1 we have -- this is the host name where the file
2 was uploaded from. This TIAS-GW7.TREAS.GOV. The
3 size of the file that was uploaded, 9175 bytes,
4 and then the full name of the file including the
5 path that was in the releases directory. The
6 name of the file was PO749.HTM. HTM is an HTML
7 file or a web page.

8 Q. Where did this entry come from, the
9 staging or production server?

10 A. This came from the staging server.
11 There was no FTP running on the production
12 server.

13 Q. And so in order to get this line, would
14 Mr. Harris need to cut and paste it?

15 A. Correct. He would have gone on the
16 staging server and gripped the log. He would
17 have displayed the log file. It's going to show
18 you the last entries first, so he would have just
19 gone and pulled -- you can display it on the
20 screen and do a copy and paste.

21 Q. And the log file contains what kind
22 of -- what information?

Page 75

1 Q. The top line: "This matches the
2 timestamp of the file on the staging server when
3 it was pushed using CMS." What does that mean?

4 A. The timestamp -- well, when it -- I
5 think I may have misspoken here. Because he's
6 telling you the time -- it matches the timestamp
7 that he shows us, which is when it was FTP'd to
8 the staging server. The next line is more
9 relevant.

10 Q. Okay. Explain the next line to me.

11 A. Okay. The file was FTP'd to the
12 staging server at 9:40 and 23 seconds. It was --
13 which means from the user or whether they were at
14 the Department of Treasury or Jeffery West's
15 house, they FTP'd, uploaded it on to the staging
16 server using the FTP protocol. FTP keeps a log
17 of any file transfers and that's what he's pulled
18 out here. So this is --

19 Q. This TREAS underline?

20 A. Underscore 1-FTP.LOG. That's the file
21 name. Then we have the time that that file entry
22 was made. October 31st, 9:40:23 of 2001. Then

Page 77

1 A. The log file would include any uploads
2 or downloads, any transmission via FTP. This log
3 file would only show FTP transmission.

4 Q. And so this log file that we see in
5 this document tells us what about the timing?

6 A. It tells us that the file first landed
7 on the staging server at 9:40 and 23 seconds.
8 These logs would have been more precise than what
9 we just looked at which just doesn't give
10 seconds. As far as the file list itself, it
11 shows only hours and minutes.

12 Q. Okay. You said that TIAS-GW7.TREAS.GOV
13 is a host name?

14 A. Yeah.

15 Q. What is a host name?

16 A. Host name would match up with an IP
17 address. It's an origin identifier. That's
18 where the person uploading was coming from. In
19 some logs we record IP addresses and in some logs
20 we record host names. Here host names give you
21 more information, it's just easier to read. It
22 is less literal.

1 Q. You were working for UUNET and UUNET
2 was owned by WorldCom?

3 A. Yes, but UUNET paid my paycheck. We
4 were a separate unit.

5 Q. Okay. When you were working for UUNET
6 in 2001, did you personally work on the servers
7 that the Treasury Department had?

8 A. I may have in some capacity. I was
9 responsible for backups and web reporting on
10 those servers.

11 Q. Do you recall ever speaking to anyone
12 at the Treasury Department in the course of your
13 work?

14 A. No.

15 Q. Which employees at UUNET dealt directly
16 with representatives from the Treasury Department
17 at that time?

18 A. Well, no one would have been
19 specifically assigned. It would have been the
20 Level 1 people answering the phone and whoever
21 picked up the ticket per their request.

22 Q. But there was never an occasion where

1 our own networks. But those networks can be
2 connected via the Internet.

3 Q. Is there another term for the network
4 that exists within a particular company?

5 A. A local area network. A LAN. Or even
6 a wide area network. A WAN.

7 Q. And the Internet is the network that
8 connects all of those smaller networks; is that
9 right?

10 A. Yes.

11 Q. You mentioned IP protocol. What is
12 that?

13 A. It's a standard way for computers to
14 talk to each other. It's a way of transmitting
15 bits and bytes.

16 Q. Is that protocol maintained by a
17 particular organization?

18 A. It's a standard. Used to be the
19 Internet Society that maintained those
20 standards.

21 Q. Is that Internet Society, is that a
22 private organization?

1 you got drawn into a dialogue between -- a
2 dialogue with the Treasury Department?

3 MS. WILLIAMS: Objection.

4 THE WITNESS: Not that I recall.

5 BY MR. TOONE:

6 Q. Do you recall ever speaking with any
7 employee from the Treasury Department?

8 MS. WILLIAMS: Objection.

9 THE WITNESS: No, but I wouldn't
10 necessarily remember.

11 BY MR. TOONE:

12 Q. As with Ms. Williams, I apologize that
13 my level of technological knowledge isn't, you
14 know, a hundredth as developed as yours, so I'm
15 going to ask some kind of basic questions.

16 A. Sure.

17 Q. What is the Internet?

18 A. Internet is a network of networks that
19 operates over the IP protocol.

20 Q. A network of networks?

21 A. Correct. Meaning we can all work for
22 different companies. All of our companies have

1 A. With funding from the U.S. Government.

2 Q. You said the Internet Society used to
3 maintain those standards. They don't do it
4 anymore?

5 A. I don't recall what the name of the
6 organization is now.

7 Q. Are there parts of the Internet that
8 are not public?

9 MS. WILLIAMS: Objection.

10 THE WITNESS: By definition, the
11 Internet is public. But certain things can be
12 secured.

13 BY MR. TOONE:

14 Q. Let's go back. By definition the
15 Internet is public. What do you mean by that?

16 A. We get into semantics here, I'm
17 afraid. You know, there's a fine line when you
18 have a network of networks as to what is the
19 Internet and what is private space. So I'm
20 sorry, your question again?

21 Q. I'm just trying to get a better
22 understanding. You said by definition the

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1 Internet is public, but there are things that can
2 be secured. I'd just like you, if you can, to
3 say a little bit more about that.
4 A. IP addresses, we call them publicly
5 routable, meaning they're announced to the -- to
6 the Internet. It's like having a telephone
7 network. But anybody that has a telephone number
8 generally can be dialed. Right? And that's a
9 public telephone because somebody can connect to
10 it via the network. Although you might have some
11 access control by having a switchboard in the
12 middle.
13 So the stuff behind the switchboard
14 would be on the big Internet, but it's local.
15 It's protected.
16 Q. Can you have -- I'm sorry, I thought
17 you were finished.
18 A. So someone may think they're on the
19 Internet, but they are really on a network
20 connected to the Internet.
21 Q. If an IP address is publicly
22 routable --

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1 A. Uh-huh?
2 Q. -- can you control access to that IP
3 address?
4 A. Yes, you can.
5 Q. How?
6 A. With the use of filters. Depends on
7 what operating system or software is running.
8 But you can configure a server. If, you know,
9 it's on a server, to reject connections if they
10 don't meet certain criteria. Perhaps you want
11 them only to come from a certain IP address or
12 within a certain range. You only want to allow
13 people from a certain network to attach.
14 Q. So what does "publicly routable" mean,
15 then?
16 A. Meaning it's -- it's announced. It's
17 like having a phone number, versus having an
18 extension. An extension -- like my extension
19 might be 347. That's not publicly routable.
20 Somebody in Kalamazoo couldn't call me if they
21 just knew my extension 347. But if I had a 703,
22 XYZ, XYZ, that, is publicly routable.

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1 Q. So anybody can reach that main number,
2 but you may not be able to reach the extension?
3 A. Right. But even in that main number,
4 to bring it back to the analogy, could have some
5 security protocols. And that's one way the
6 Internet would be different than your public
7 phone system, because you could control who dials
8 that number, so to speak, on the Internet.
9 Q. So I'm just trying to understand this
10 better.
11 A. Yeah.
12 Q. There are publicly routable IP
13 addresses that I as a normal citizen cannot get
14 access to?
15 A. Right. Right. Correct.
16 Q. And how is that access controlled?
17 A. Because someone may have configured the
18 system to only allow connections from specific
19 sources.
20 Q. Let's look at the Exhibit Number 6.
21 A. Uh-huh.
22 Q. And on the first page -- we looked at

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1 this earlier. On the first page the Treasury
2 production server and the Treasury staging server
3 are listed. Do you see that?
4 A. Uh-huh.
5 Q. And below each of those are five IP
6 addresses each?
7 A. Yes.
8 Q. Can you tell from just looking at those
9 IP addresses whether or not they are publicly
10 routable?
11 A. They would all be publicly routable,
12 yes.
13 Q. How can you tell that?
14 A. Because I know that those networks in
15 Tysons Corner were publicly routable. That all
16 of our networks in Tysons Corner were publicly
17 routable.
18 Q. If you didn't have that information
19 about what was on the Tysons network, would it be
20 possible to look at these numbers and know
21 whether or not they were publicly routable?
22 MS. WILLIAMS: Objection.

39 (Pages 150 to 153)

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1 THE WITNESS: Well, yes, you would
2 expect them to be because of the 208 and source.
3 BY MR. TOONE:
4 Q. The 208, those are the first three
5 digits on each number?
6 A. Yeah.
7 Q. What does that tell you?
8 A. That it's -- most nonroutable addresses
9 would be -- start with 111 or 193. Other
10 prefixes.
11 Q. Have you heard of the Internet assigned
12 number authority?
13 A. Uh-huh.
14 Q. What is that?
15 A. They would keep track of the IP
16 addresses.
17 Q. Has that authority set aside specific
18 blocks of IP addresses that are available for use
19 as nonroutable network addresses?
20 MS. WILLIAMS: Objection.
21 THE WITNESS: I don't know the
22 specifics of how that's done.

1 from simply viewing them?
2 A. Not those filters. There would or
3 could have been additional filters, but those
4 were under control of the customer.
5 Q. Are you aware of any such filters being
6 used by the Treasury Department in 2001?
7 A. No.
8 Q. And UUNET itself did not maintain any
9 filters that prevented outsiders from viewing
10 these IP addresses in 2001?
11 A. Not to my knowledge.
12 MR. TOONE: We will take a break, if
13 that's all right.
14 VIDEOGRAPHER: This is the end of tape
15 2. Off the record at 2:41:21.
16 (Recess.)
17 VIDEOGRAPHER: This is the beginning of
18 tape 3 in the deposition in the corporate
19 deposition of Verizon by Anne Wilson. On the
20 record at 2:44:47.
21 BY MR. TOONE:
22 Q. Let me direct your attention briefly to

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1 BY MR. TOONE:
2 Q. Now, you said earlier that you knew
3 from your experience that UUNET that all of these
4 IP addresses on the first page of Exhibit 6 were
5 publicly routable; is that right?
6 A. But that doesn't mean that they're
7 publicly accessible.
8 Q. Well, what do you know about these
9 numbers being publicly accessible?
10 A. I know that the IP addresses on the
11 production server would have been publicly
12 accessible. The IP addresses on the staging
13 server would have had filters on them so that
14 only specified addresses could FTP or otherwise
15 actually connect to that system.
16 Q. Now, you're saying -- you've testified
17 that the IP filters prevented outsiders from
18 using the FTP function on these --
19 A. Right.
20 Q. -- on these staging servers; correct?
21 A. Correct.
22 Q. Did those filters also prevent people

1 documents that were marked, I believe, Exhibit 4
2 and Exhibit 5.
3 A. Okay.
4 Q. Do you recall discussing these
5 documents with Ms. Williams?
6 A. Yes.
7 Q. Just now, just today.
8 A. Oh, yes.
9 Q. Did I understand you correctly that
10 this was a request from Jeffery West to be able
11 to FTP documents on Treasury's staging server
12 from his home computer?
13 A. Uh-huh.
14 Q. That's a yes?
15 A. Yes.
16 Q. Did you say that it wasn't necessary,
17 if the FTP request was coming from within
18 Treasury Department, to make this kind of a
19 request?
20 MS. WILLIAMS: Objection.
21 THE WITNESS: I don't think I
22 specifically said that.

40 (Pages 154 to 157)